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PROBLEMS IN POLITICAL EVOLUTION

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PREFACE

Never before, perhaps, has there been so keen and widespread an interest in questions of governmental organization and function as exists at present. The extension of political authority to all classes within the state furnishes a means of adding legal effect to public opinion and gives importance to the political views of the masses. The complex social and economic life of to-day offers an enormous field for the extension of state activities in ways that fundamentally affect the interests of every citizen. Political forms and methods, considered ideal and permanent a half century ago, are breaking down under the strain caused by the rapidly changing conditions of modern life; and states show little hesitation in making important and far-reaching reforms in their efforts to secure better adjustment.

Moreover, modern states are seriously and honestly trying to apply scientific methods in their attempted reforms. Statistical materials, records of past politics, and data gathered from the four corners of the earth are at the disposal of modern lawmakers and administrators. At the same time, the nature of political problems is often imperfectly understood. Devices of government or methods of regulation that have worked well in one place or at one time are applied in others with the expectation of equally good results, regardless of the fact that different conditions may nullify their expected benefits and produce entirely unlooked-for consequences. The assurance with which politicians refer to the fate of the Roman Empire as an example of what will happen to the United States if it retains its colonial possessions, and the light-hearted and haphazard manner in which lawmaking bodies enact sweeping legislation with no apparent realization of its direct or indirect results, suggest the desirability of a more accurate knowledge of the laws of political causation and of the complex nature of political evolution.

This volume aims to settle no controverted questions. Its province is to state problems, not to solve them. Its purpose is to show the relativity of political methods and the multiplicity of forces involved in each phase of political evolution; and at the same time to indicate the essential unity and continuous development of the state and the consequent interrelation among all the aspects of political existence. Such a study necessitates numerous broad generalizations, few of which are entirely above criticism. The very intricacy of the process under consideration places limitations upon almost every statement that may be made. In a general way, however, an attempt is here made to trace the evolution of certain phases of the state, to point out some of the problems that have arisen because of the nature of political organization, to indicate the methods that men at various times and places have employed in their attempted solutions, and to bring out the permanence of these problems, the impossibility of their final settlement, the need for constant compromise and adjustment, and the danger of rash experiments and extremes.

As President Lowell says, human progress is like beating to windward, a tack to starboard and then a tack to port, for mankind, unable to discern absolute truth in shaping its course, moves forward by overaccentuating one principle at a time. Human evolution, distinguished from natural evolution by the ability of man as a rational being to modify his environment and to direct deliberately his progress, should be characterized by a narrowing of the range of these extremes, thus making possible a more rapid and continuous advance. A better realization of the nature of the state, of its past development and present conditions, and of the chief influences that affect its evolution may aid in this process.

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PROBLEMS IN POLITICAL EVOLUTION

CHAPTER I

THE EVOLUTION OF THE STATE

I. General Nature of Political Evolution

1. Permanence of the state. Any attempt to discuss the evolution of the state must rest upon certain general assumptions. It takes for granted, first, that a political institution, called the *state*, has been a permanent phenomenon in the history of human existence; and that this institution, possessing at all times the same general essentials, can be separated from other social institutions for purposes of analytic study. Whenever mankind has arisen above the lowest stages of barbarism, an organization of some kind, receiving or enforcing obedience to rules of some sort, has been universal.[1] While conceptions of the state have undergone radical transformations, certain attributes, essential to state existence, have been permanent, invariably included in a more or less perfect form in every manifestation of organized political life. These elements compose the state in the abstract, considered apart from any particular state found at any given time or place.[2] A definition of the state and an analysis of its essential elements will therefore serve as a starting point in this study, setting forth definitely the nature of the organization to be considered.

2. Essential elements of the state. A state consists of a number of individuals who occupy a definite territory and who are politically organized by means of a government which formulates

[1] Burgess, Political Science and Constitutional Law, Vol. I, Bk. II, chap. i; McKechnie, The State and the Individual, Introduction; Seeley, Introduction to Political Science, Lecture I. [2] Willoughby, Nature of the State, pp. 14–16.

and administers, in the form of law, a sovereign will over all the individuals and associations of individuals within the state, and which maintains a sovereign independence by adjusting the mutual rights and obligations of the state in its dealings with other states.[1] This definition suggests the essential attributes of the state, which are (1) population, (2) territory, (3) government, (4) sovereignty, and (5) law. Without population a state obviously would be impossible. The possession of fixed territory, while possibly not always necessary to rudimentary political existence in the past, has been for a long time a requisite, sovereignty and law having a territorial basis.[2] By its very etymology the word "state" is associated with a fixed abode. In the sense that the physical environment is the setting within which all human life and activity takes place, territory has been, of course, a constant element. Government is necessary as the outward organized manifestation of state existence, and as the only means through which the state may perform its functions. Sovereignty includes the idea of legal supremacy internally and legal independence externally, and is the attribute that distinguishes the state from its own parts and from other states. Law is the expression of this sovereignty in a body of rules which the state enforces as its will, and which determine the relations of the state to its individual members and of these individuals one to another.

3. Evolution of the state. In the second place, it is assumed that the state has passed through an *evolution;* that is, that, like all forms of life, it has tended to adjust itself to its environment by adaptation of function or by the survival of the fittest types, the environment destroying forms unsuited to it and allowing only the fit to survive. The term "environment," when applied to political institutions, must, however, be widened to include not only the physical background furnished by nature, but also the social background composed of the various institutions and ideals which affect the life of men in association; and to both of these must be

[1] For a number of other definitions of the state, see Garner, Introduction to Political Science, pp. 38–41.

[2] On territory as a requisite for the state, see Held, System des Verfassungsrechts, chap. v.

added the conscious efforts of men, as rational beings, in modifying both the physical and the social environment and in directing to a degree the course of individual and social evolution. As a result, in favorable environments, the state has developed from simple to complex,[1] with resultant integration, by a gradual process of change, influenced by various elements in the physical environment, — geographic features, climate, natural resources; by the population composing it, sometimes unconsciously, sometimes by purposeful effort; by changes in other closely related social institutions, such as the family, the church, the industrial and the military groups; and by its relations with other states, in peace and in war. In tracing this evolution it is necessary to point out, in part at least, the causes and relations that underlie this process, and to find, whenever possible, the general laws and principles upon which political development is based.[2]

4. Laws of political evolution. Some caution must be observed in using the expression "laws of political evolution." A law in science properly implies a connection which is necessary and universal. It states conditions from which certain consequences invariably result. In tracing social development, however, what is usually ascertained is a general trend of movement. This trend is formulated and inaccurately called the law of the series of changes or movements. While a broad grasp of the successive phases of political development and a description of its tendencies are of scientific value, there still remains, if possible, to discover the permanent conditions upon which such movement depends. The first inquiry usually throws light on the second, since from our

[1] Under favoring conditions evolution frequently transforms complex into simple forms, with resultant disintegration. Spencer's definition of evolution, as development from indefinite incoherent homogeneity to definite coherent heterogeneity, applies only to evolution in environments favorable to progress. While in general civilization has developed from simple forms to complex forms, human evolution even in a favorable environment sometimes shows two diverse tendencies, — one from the complex to the simple, the other from the simple to the complex. The evolution of language, for example, often shows a transition from complex to simpler forms, even among the more advanced peoples. See Kelly, Government or Human Evolution, Justice, pp. 67–69; Boas, Mind of Primitive Man, pp. 193–195.

[2] MacFarlane, "Three Primary Laws of Social Evolution," in Annals of the American Academy of Political and Social Science, Vol. XX, No. 2.

knowledge of the direction in which evolution has moved, the forces which have moved it may be discovered. Both of these problems are of great difficulty, since in the development of the state no single trend and no single cause can be found, but rather a complex of interrelated movements, difficult to synthesize, and a multitude of interrelated conditions, almost impossible to analyze.

5. Factors in political evolution. In the evolution of the state the fundamental factors that underlie all organic evolution are present. Human beings, like all living species, multiply through reproduction. Heredity secures continuity of the type. Variation takes place because each new individual inherits something from each parent, and because of changing surroundings. Natural selection takes place through the struggle for existence and the elimination of those unsuited to their environment. Competition among the lower classes for food, and among the higher classes for position and for supremacy, constantly weeds out the unfit. But to this primitive process other factors are added.[1] The evolution of mind plays a most important part. Keen intelligence, the ability to foresee and to escape danger, the power of adaptation to the environment or of modifying it become more valuable than mere brute strength in human evolution. Besides, coöperation, resulting from association, and creating altruistic sentiments, is of even greater value; and groups with the best organization and the most loyal spirit are usually most successful. By these methods, human society tries to fit as many as possible to survive and to live well.

6. Conflict and coöperation. Conflict and coöperation are, therefore, the two most powerful factors in all social evolution. "While competition characterizes in the main the relation between groups, especially independent political groups, and while coöperation characterizes in the main the relation of the members of a given group to one another, still competition and coöperation are correlatives in practically every phase of the social life. Some degree of competition, for example, has to be maintained by every group between its members if it is going to maintain high standards of efficiency or of loyalty. If there were no competition with respect to the matters that concern the inner life of groups, it is evident

[1] Kelly, Government or Human Evolution: Justice, pp. 76–137.

that the groups would soon lose efficiency in leadership and in membership and would sooner or later be eliminated. Consequently society, from certain points of view, presents itself to the student at the present time as a vast competition, while from other standpoints it presents itself as a vast coöperation."[1] The qualities developed by both conflict and coöperation are valuable in political evolution. Courage, strength, and self-reliance, valuable for conflict, lead to selfishness and isolation and must be modified by the amenability to discipline and organization which make possible political life; without, however, entirely destroying the warlike virtues, lest the group perish at the hands of more aggressive neighbors. Docility sufficient to permit social organization, coupled with courage and strength sufficient to resist aggression, were needed during the period when political evolution was largely dependent upon physical struggle; and the same qualities, applied in a modified form to the conditions of modern life, characterize the successful states of the present day.

7. Problems in political evolution. In the third place, the conception that there have been *problems* in political evolution implies that certain conditions have arisen demanding the purposeful adjustment of means to ends. While much of the process of state development took place before man was conscious of his political life and before he made any effort deliberately to direct or modify his political institutions or activities, even then certain fundamental problems, by their very nature underlying the course of state evolution, were taking form and being met in a crude way by primitive devices and methods of government. Later, when man realized the existence of the state and the possibility of change through his own efforts, he stated these problems more or less clearly, and began to think and to experiment toward their solution.

8. Fundamental problems. While endless difficulties constantly arose, even in the minutest details of political organization and function, certain questions stood out above all others, the answers to which determined the essential nature of political forms and the general lines of their development. Some of these fundamental problems, which have existed since the first states arose, which

[1] Ellwood, Sociology and Modern Social Problems, p. 47.

have been met in various ways, and which mankind is still struggling to solve, may be framed as follows: Who shall constitute the state? What shall be its extent in population and area? What shall be the bonds holding its members together? If the state be large, what shall be the proper adjustment of central and local authority? Who shall rule the state? On what basis shall their authority rest? On what basis shall governing powers be distributed among the various organs of government? What shall the state do? What is the proper limit to its activities? What, in last analysis, are the proper ends or purposes of the state?

9. Necessity of compromise. The solution of each of these problems demands a compromise. The state, by its very nature, involves an adjustment between its own authority and the freedom of its individuals, between that complete sovereignty which is despotism and that complete liberty which is anarchy. Some compromise must be reached in the dealings of states one with another. The various solutions of these difficulties that have been attempted, the shifting adjustments under changing conditions, the decline of some and the creation of other institutions, — these make up the story of political development,[1] and have demanded the best efforts of many of the world's greatest thinkers and mightiest workers. While much progress has been made in establishing a rational and satisfactory basis for the consideration of these questions, and while some of them are fairly well worked out in modern states, all still occupy the attention of statesmen or arouse the interest of the masses, and some are still sufficiently unsettled to cause internal revolutions or international wars. Since the state is an evolution, no permanent solution of these problems can be expected. The need remains, however, that each people in each age shall make such adjustments as best conserve their best interests under existing conditions, looking at the same time to such modifications of the conditions as may make possible still further progress.

10. Sources of data. Finally, it is necessary that a body of facts should exist from which information concerning the development of the state may be secured, and that a method of analysis,

[1] Dealey, Development of the State, Part I; Jenks, History of Politics, chap. i.

classification, and interpretation should be available in order to deduce general principles concerning political evolution.[1] Thoughtful students are coming to realize that no science dealing with man has a special field of data to itself.[2] The various social sciences merely view human action from different points of view. Man as a political animal, acting upon political motives as distinguished sharply from other motives, is a pure abstraction. Instead of a "natural" man, an "economic" man, a "religious" man, or a "political" man, the whole man, influenced by motives of all kinds, performs his duties and observes his obligations in the state as a part of his broader and more complete social life. The state is, indeed, a social as well as a political organism, and has even its physical and psychical elements. A study of political evolution must therefore draw materials from many fields. Archæology and anthropology disclose data concerning primitive forms of political life. Geography, ethnology, and psychology furnish information concerning the influence of nature and of the physical and mental traits of individuals upon political development.[3] History reveals step by step the processes in the origin and development of the state, and makes possible a comparative survey of periods and of institutions.[4] Sociology, economics, ethics, and jurisprudence contribute material in the form of facts, generalizations, theories, and methods of investigation and interpretation.[5] Governments, through numerous bureaus and private associations and investigators, obtain data of every sort, historical, descriptive, and statistical. "From this vast heterogeneous mass of materials are coming an ever sounder notion of the origin,

[1] Lewis, Methods of Observation and Reasoning in Politics.

[2] Beard, Politics, pp. 5–12.

[3] Jellinek, Recht des modernen Staates, pp. 72–120.

[4] For the relation of history to political science, see Seeley, Introduction to Political Science, Lecture I; Bryce, "Relations of Political Science to History and to Practice," in American Political Science Review, February, 1909; Burgess, "Relation of Political Science to History," in Report of the American Historical Association, Vol. I (1896).

[5] On the relations of political science to the other social sciences, see Garner, "Relations of Political Science," in American Journal of Sociology, November, 1906; Small, "Relation of Political Science and Sociology," in American Journal of Sociology, July, 1906; Hadley, "Relation of Political Science and Economics," in publications of the American Economic Association, 1899; Garner, "Relation of Political Science and Ethics," in International Journal of Ethics, January, 1907.

functions, and tendencies of the state, a higher view of its possibilities as the experiments of each nation are placed at the disposal of all, and finally a more scientific theory of causation in politics.[1]

11. Methods of natural and social sciences. A fundamental difference in methods exists between scientific investigation as employed by the physical sciences and that employed by the social sciences.[2] In the former, observation, experiment, and verification are the tools. The object under examination must be isolated, exactly described, and contrasted with other objects. The chief purpose is to ascertain its qualities by a series of accurate experiments and studies. In contrast, the social sciences deal with wholes or with a composition of forces that cannot be isolated nor studied as single units. Society is a living organization, whose component units are living beings; and the laboratory method of study is not available. Hence, chief attention must be directed to great changes, to modifications in the whole so prominent that the effects are conspicuous. Minor causes must be ignored, since it is impossible to isolate and measure them; emphasis must be placed upon major causes and consequences, and these are clearly seen only after the lapse of a considerable period of time. Experimentation, as carried on in the natural sciences, where phenomena are artificially created and observed with the aid of apparatus, is obviously impossible; although every deliberate modification of existing political conditions is a form of experiment, and much valuable material may be secured by careful observation of the actual workings of government, of the influence of past traditions and present-day conditions, and of the results of such political changes as are made from time to time.[3]

12. The biological analogy. The biological analogy, which compares the state to a living organism, classifies its parts, describes its structure, analyzes its functions, and traces its life processes according to the methods of the biologic sciences and on the basis of the theory of organic evolution, is of value in emphasizing the unity and continuous development of the state and its dependence

[1] Beard, Politics, p. 8; see also Seeley, Introduction to Political Science, Lecture II.

[2] Patten, Social Basis of Religion, pp. 21–24.

[3] Garner, Introduction to Political Science, pp. 22–23.

upon its physical and social environment; although the resemblance between the body politic and a living organism is superficial, the laws which determine the growth and evolution of the former being in the main inapplicable to the latter.[1]

13. The psychological and juridical methods. Some writers, especially in France, have attempted to interpret political institutions and explain political phenomena by means of psychological laws.[2] Others, especially in Germany, analyze the public law of states and, neglecting the extralegal and social forces that underlie actual government, attempt to deduce the nature of the state from a study of constitutions, treaties, and statutes.[3]

14. The historical method. Probably the most fruitful method is based on a comparative study of historical data.[4] Political institutions can be understood only through a knowledge of their origin and past development. History "brings in review the great political movements of the past, traces the organic development of the national life, inquires into the growth of political ideas from their inception to their realization in objective institutions, discovers the moral idea as revealed in history and thereby points out the way of progress."[5] Such investigation assembles a mass of material from which, by selection, comparison, and elimination, ideal types and progressive forces may be discovered. To be sure, only those states which are contemporaneous and which have a common historical basis for their political and social institutions may be compared with advantage. Allowance must also be made for the personal bias of historians and investigators, for the constant temptation to confuse what ought to be with what is,[6] and for the danger of depending too largely on written constitutions and laws, on the skeleton of political organization, thereby neglecting the actual working of political institutions, the administration of the laws, and the influences

[1] For a statement of the biological analogy, see Spencer, Principles of Sociology, Vol. I, Part II; Schäffle, Bau und Leben des socialen Körpers. For a criticism of the analogy, see Willoughby, Nature of the State, pp. 35–38.

[2] Le Bon, Lois psychologiques de l'évolution des peuples.

[3] Jellinek, "Die juristische Methode in der Staatslehre," in Recht des modernen Staates, Bk. I, chap. ii.

[4] Bluntschli, Theory of the State, Introduction, chap. ii.

[5] Garner, Introduction to Political Science, p. 28.

[6] Seeley, Introduction to Political Science, pp. 18–22.

behind the obvious governmental machinery.[1] Besides, the complexity of political evolution renders any attempt to discover general principles liable to error, because of the danger of overlooking circumstances, conditions, or influences, whose omission may invalidate the most important conclusions.[2] This difficulty of generalization leads to an unfortunate tendency toward one of two extremes. On the one hand, there is the danger of theorizing on the basis of very little historical evidence, of elaborating a one-sided hypothesis, chiefly by using the imagination or by neglecting facts that contradict the original theory or demand its reconstruction.[3] On the other hand, there is the danger of becoming a mere observer or gatherer of facts, without attempting to bring out their meanings or to formulate generalizations. The interest then becomes that of the antiquarian rather than that of the scientist, and the real problem is lost sight of in the collection of superficially related facts.[4]

15. **Political history and political theory.** Two phases of history furnish especially valuable data for the study of political evolution, — the history of political theory and the history of political institutions. The evolution of the state has followed two lines, fairly distinct, yet closely interrelated. One has been the development of the state in actual practice, as manifested in outward organization and activity. This is the state *objective* as described in political history. It is the story of the various states that have actually existed, their origin, development, organization, and functions. The other phase has been the development of the state *subjective*, the idea of the state as it has been evolved in the minds of men. This is the field of political theory.[5] Between political theory and political institutions the relation has always been close. Ordinarily, political theories are the direct result of objective political conditions. They reflect the thoughts and interpret the motives that underlie

[1] Lowell, "Physiology of Politics," in American Political Science Review, February, 1910.

[2] For a suggestive treatment of the method and scope of inquiry in social evolution, see Forrest, Development of Western Civilization, Appendix.

[3] Brooks Adams, Law of Civilization and Decay; Patten, Development of English Thought; and Simons, Social Forces in American History, are examples.

[4] See Small, "The Sociologists' Point of View," in American Journal of Sociology, Vol. III, pp. 145–170, for a statement of the proper middle ground between these tendencies.

[5] Willoughby, Nature of the State, pp. 14–17.

actual political development. They indicate the spirit and conditions of their age. On the other hand, political theories also influence political development. They are not only the outgrowth of actual conditions, but, as political ideals, they, in turn, lead men to modify their institutions. Political theories are thus both cause and effect. Changing conditions create new theories; these in turn influence actual political methods. Theory and practice go hand in hand.[1] Accordingly, any discussion of the evolution of the state must take into consideration both the state subjective, in political theory, and the state objective, as manifested in political institutions, and must draw its material from the history of both.[2] In addition, an understanding of the underlying causes and the intricate interrelations of political development demands some familiarity with the general field of history, and material must be drawn from our knowledge of human life in all its aspects, some of which are directly, others indirectly, connected with the development of the state. At the same time, this mass of material must constantly be viewed from the standpoint of political science, and must be so selected and interpreted as to throw light on the political life of man, — on that law-enforcing organization and authority that has been found wherever human life has reached any considerable degree of advancement.

16. The state as static and dynamic. The evolution of the state may be observed from a still different point of view. At any given time the state may be considered as static or dynamic; that is, it may be viewed as at rest or in motion. Emphasis may be laid on what the state *is*, or on what it *does*. Attention may be directed to the nature of the state in its organization, or to the purpose and functions of the state in actual operation. Any description of the state that omits a consideration of its activities is obviously incomplete. Hence, in following the development of the state, both the nature of its governmental machinery and the functions performed by this machinery must be described.[3]

[1] Willoughby, Political Theories of the Ancient World, Preface.

[2] Pollock, History of the Science of Politics; Jenks, History of Politics.

[3] This distinction between what is often called "theoretical" and "applied" politics has been observed by a number of writers, among whom may be mentioned Holtzendorff, Jellinek, Janet, Lewis, Bain, and Pollock. See Garner, Introduction to Political Science, pp. 8–9.

17. The internal and external aspects of the state. A still further general distinction may be noted. The fundamental relations of the state are of two kinds: first, its relation to the individuals composing it; second, its relation to other states. The state has, thus, its internal aspect, as determined by its municipal law; and its external aspect, as determined by the customs and principles now called international law.[1] In tracing the development of the state, both must be considered. The state determines, from time to time, who are included in its citizen body, what shall be their share in authority and their sphere of freedom against the encroachment of other individuals or of the government. In general, the respective interests of the state as a unit and of its individuals must be clearly defined and adjusted. At the same time, the state is involved in relations — diplomatic, commercial, warlike — with other states, and these also affect the process of its development.

18. General nature of political evolution. In tracing the evolution of the state, therefore, many and varied elements will be found, so closely interwoven as often to be inseparable. Such a study must include an account of the origin of the state and a chronological description of its development from the simple tribal horde of primitive times to the complex organization of the present day; and this process must be viewed as taking place both in the minds of men, as political theory, and in outward manifestation, as political institutions. Besides, the state must be considered from the standpoint of both organization and function, and the relation of the state to its component individuals and to other states must be included. By combining all these, a general survey of the historical development of the state in all its forms, relations, and activities may be made, and the state, in its origin and growth, may be considered as one phase of the general evolution of nature and of man.

II. Limitations on General Process

19. Geographical limitations. While it is, therefore, possible to trace a general process of state evolution, this has not been a single process, nor has it had a simple or uniform development.

[1] Crane, "The State in Constitutional and International Law," in Johns Hopkins University Studies, Series XXV, Nos. 6–7.

Certain limitations and exceptions must be noted. In the first place a geographic limit must be fixed. Human life has been found in almost all parts of the earth, and some form of organized authority, or state, of a more or less definite type, has been universal. Many of these communities, however, have been isolated and have played no part in the development of modern political life. Others have remained stagnant, showing little evidence of advancement. Still others, for a long time outside the current of political evolution, have only recently taken part in the world movement. Hence, in outlining any continuous process of state development, only those peoples who have contributed to modern political ideas and methods will be considered. States will be included only when they are brought into contact with that movement that has resulted in modern political civilization.[1]

20. Geographical origins of the state. From this standpoint, the origin of the state will be found in the fertile river valleys of Africa and Asia, — the Nile and the Euphrates, — and in the middle country between these valleys, — the land of the Phœnicians and Hebrews. From this center, political development spread to Persia on the east, and to Greece and Rome on the west. After various phases of state life, the political development of the ancient world culminated in the Roman Empire, civilization centering in the area surrounding the Mediterranean. The barbarian invasions extended the territory of this process to all Europe, and the modern states arose in various parts of that continent. Later, the discovery of America opened up a new world to political evolution, shifting the center of interest from the Mediterranean to the Atlantic. Still more recently, the Far East has been brought within the compass of modern civilization, and the shores of the Pacific, as well as of the Atlantic, influence present political affairs. During this same time the great nations, in building up their widespread colonial dominions, have been extending their sway into remote parts of the earth, so that, at present, scarcely any region is outside the current of political movement.

[1] That portion of the history of the whole world in which we are especially interested is the history of those nations which in successive stages have created the civilization we enjoy. — Adams, European History, p. 1.

21. No single line of political development. Even within this gradually expanding area, the evolution of the state has not been a single or continuous process. States have arisen at different times, in different places, by processes by no means uniform, and have manifested themselves in diverse forms and through various activities. Any attempt to find a single origin for the state is impossible. In fact, no definite step can be pointed out as the critical change from a previous, nonpolitical condition to a later, organized state. The origin of the state is itself an evolution, influenced by many conditions, and brought to pass in different ways. When human life, in association, reached a certain general point and came under certain general influences, some form of organized authority, more or less political, resulted; and numerous states thus arose by a process similar only in its main features.[1] Likewise, in its development no single line can be traced. Many writers have attempted to find a regular sequence or a rule of general application in the successive transformations through which governments pass.[2] Plato taught that authority in the state was controlled in turn by the best, then by the military, then by the wealthy, then by the mob, resulting finally in tyranny.[3] According to Aristotle, the state began as a monarchy, which later became an aristocracy. This in time passed through the stages of oligarchy and tyranny, and finally became a democracy. Gradually democracy also tended to break down and was usually replaced by monarchy, the cycle thus starting again at the beginning.[4] More recent scholars have also laid down principles of succession in the evolution of governmental forms. Bluntschli, for example, held that normal states pass through the stages of theocracy, monarchy, aristocracy, and democracy, with the danger of degenerating into the accompanying abnormal forms of hierarchy, tyranny, oligarchy, and ochlocracy.[5]

22. No universal cycles in political development. History furnishes abundant evidence, however, to prove that the evolution of the state follows no universal sequences. Different types of state have existed side by side, the process of growth moving in some

[1] Bluntschli, Theory of the State, Bk. I.
[2] Garner, Introduction to Political Science, pp. 200–204.
[3] Republic, Bk. VIII. [4] Politics, Bk. VI. [5] Politik, pp. 310–312.

places and among some peoples more rapidly than elsewhere, and the form of each state adapting itself to existing needs and conditions. Thus the empire of Alexander was contemporary with the Roman Republic, and the Mohammedan Empire was formed when western Europe was politically disorganized and feudal. Neither has this process worked itself out to any uniform conclusion. Numerous forms of political civilization still survive, no two modern states being alike except in their essential nature. However, if attention be centered on those peoples who have most directly contributed to political progress, a fairly definite and uniform course of development, in certain important phases, may be observed.[1]

23. General process of political development. The state emerged in the form of a loose, tribal horde, held together mainly by bonds of kinship and religion, and by the necessity for coöperation in securing order and protection for life and property within the group, and for defense or aggression against other groups. Under the natural conditions prevailing in the East, the tribal horde grew into the despotic *Oriental empire*, vast and loose-jointed, under the absolute rule of the priestly and military classes. Such was the type of state found in Egypt, Babylon, and Persia, and, more isolated, in India, China, Mexico, and Peru. Under a different environment, the primitive tribes sometimes aggregated into villages, and these, in turn, grew into *city states*. In Phœnicia, Greece, and, for a time, in Italy, this form of political organization flourished. The expansion and conquests of Rome broke down the independence of these small units, and the incorporation of many cities under one rule established the Roman Empire, — a *world state* including all the western civilization of that time. Resembling in some ways the earlier Oriental empires, the Roman state made valuable contributions to political progress, establishing new concepts of sovereignty, citizenship, and law. The internal decline of the Roman world and the migrations of the barbarian Teutons overthrew this world empire, and during the Dark Ages political life was chaotic. The theory of world empire survived, but the church exercised large temporal powers, and much governing authority fell into the hands of the leaders who confiscated the lands.

[1] Gettell, Introduction to Political Science, chap. vi.

A mingling of personal allegiance, of governing power based on landowning, and of the conflicting claims of church and state characterized this period; and to this condition the term *feudal state* is applied. Gradually, as civilization advanced, and a more definite organization became possible, a new type of state, with geographic and ethnic unity as its basis, appeared. This was the *national state*, representing a homogeneous people, occupying a territory with more or less distinct natural boundaries. This type of state represents man's most advanced political product. In it the diminutive size of the city state, too weak to carry on the activities necessary for public welfare, is avoided, as well as the unwieldy and stagnant uniformity of the world empire. A natural unity in territory and population is utilized and political bonds are strengthened by common interests which seem rational and inevitable. These states, Spain, England, France, and others, arose as absolute monarchies, with national life and international rivalries centering around their kings. More recently, political development has been occupied with the gradual democratization of the state internally, and with the establishment of colonial empires as the most important external activity.

24. Limitations on general process. In these broad outlines a general process of state evolution may be observed, the various forms — tribal empire, city state, world empire, feudal state, and national state — marking the main stages of development.[1] However, these stages cannot be regarded as clear-cut types following a regular order of progress. The ideal of world empire, for example, has often filled the imagination of men, and Alexander, Cæsar, Charlemagne, and Napoleon, in widely separated epochs, achieved, more or less completely, its realization. Similarly, the city state has arisen at different periods, the free towns of Italy, Germany, and Flanders in the Middle Ages reproducing many features of earlier Greece and Rome. Neither has this process been continuously progressive. Political contributions, worked out after bitter effort, have been destroyed as new conditions placed chief emphasis on new needs, or as new peoples had to be raised from barbarism.[2] The democratic principles worked out in Greece were subordinated

[1] Sidgwick, Development of European Polity.

[2] Bluntschli, Theory of the State, Bk. IV, chaps. i–v.

to the need for strong authority in binding together the extensive and diverse Roman Empire; and the excellent organization developed by Rome fell in turn before the anarchic individualism of the Teutons. Only after many costly experiments has man acquired his present ability to combine sovereignty and liberty, to secure unity of organization over large areas, and to support authority on the broad basis of popular will.

25. Evolution not always progressive. It should also be remembered that while evolution is usually associated with progress, it may also imply degeneration. Under unfavorable conditions evolution still takes place, but development ceases and retrogression sets in. The eyeless fish of the dark caves of Kentucky, the moss of the arctic regions, and the sagebrush of the alkali deserts are results of evolution in environments unfavorable to progress. Evolution means growth; progress means growth in respect of those qualities to which human beings can rationally attach value. "For example, a caste system is a product of social evolution, and the more rigid and narrow the caste, the more complex the hierarchy, the more completely has the caste system evolved. In proportion, that is, as a loose and incipient caste system hardens into an extreme and rigid caste system, there is a distinct process of social evolution going forward; but most of us would question very strongly whether it could be considered in any sense as a phase of social progress. Judged from the standpoint of human values, it looks more like retrogression, or perhaps still more like divergence into a side track, from which there is no exit save by going back over a good deal of the ground traveled. So again there is at the present day a vigorous evolution of cartels, monopolies, rings, and trusts; there is an evolution of imperialism, of socialism, of nationalism, of militarism, in a word, of a hundred tendencies as to the good or evil of which people differ. The fact that a thing is evolving is no proof that it is good, the fact that society has evolved is no proof that it has progressed." [1]

26. Political retrogression. While the history of the state, viewed as a whole, shows increasing perfection of organization and increasing usefulness of function, it also shows political institutions

[1] Hobhouse, Social Evolution and Political Theory, p. 8.

sinking into decay. Greece and Rome, after their civilizations had borne fruit, fell before more vigorous peoples, and their political forms and methods were replaced by others, not always better in themselves, yet better suited to new conditions. Similarly, within each state, there is an atrophy of institutions no longer useful to the growing organization. The crown in England has lost most of its former prerogatives, and the methods of the town meeting are no longer possible in modern New England cities. Yet in a broader view, even this retrogression will usually prove to be a part of a larger progress,[1] and there is as yet no evidence that political advancement as a whole has not been continuous.

27. The costs of progress. Several causes may be suggested as partially explaining the broken and uneven nature of progress. In primitive times the control of man over nature was small and even the most advanced peoples could not successfully cope with the superior brute strength of their less advanced neighbors. Victory was not to the best but to the strongest, and not until the best became the strongest could they secure the permanence of their type. Superior civilizations were repeatedly overthrown by deluges of barbarism; and it is only in our own time that the physical conditions of life have come so far within human control as to render possible a permanent and unbroken development of civilization. Besides, social progress engenders certain internal conditions that cause decay and possible destruction.[2] The same control over external nature that makes possible the survival of the higher type causes also social inequality. "The individual, the caste, the race of higher powers will hold the weaker enslaved to their immediate profit, to the gain of industrial civilization, but to the immeasurable loss of much besides. The mechanical developments of the eighteenth and nineteenth centuries afford the basis for a wholly new type of civilization, but this possibility is not to close our eyes to the lowering of the standard of life and the mechanizing of great masses of human beings which they have entailed. We may go still further, and maintain with Plato that in the civilized world

[1] See Evolution by Atrophy in Biology and Sociology, by Demoor and others. Translated from the French by Mrs. Chalmers Mitchell.

[2] Giddings, Democracy and Empire, chap. v.

every form of society perishes by its inherent vices as much as by external assault. Thus the states of Plato's own time decayed through internal faction, and the narrowness of the spirit of autonomy which forever nipped the shoots of Pan-Hellenic sentiment. The Roman state, enjoying a far higher level of political capacity, could not reconcile liberty with empire, nor even the stability of automatic rule with the power of the soldier and the vast physical extent of the frontiers. For the modern world there remain problems of reconciliation no less grave." [1]

III. Changes in Political Conceptions

28. Conceptions of the nature of the state. During the progress of political development, conceptions of the nature of the state have undergone radical changes. In the beginning, political life was closely bound up with family and religious interests. No distinction was made, in organization or function, between state, family, and church. Ties of kinship and religion united the group, and authority was exercised under patriarchal and priestly sanction. As the state developed, political rule, based on human sanction and distinct from paternal and divine power, became more definite; and family, church, and state differentiated, each with its own organization and its own sphere of interests and activities.[2] On the other hand, the idea that the state should carry on certain activities which public welfare demands, and which individuals cannot or will not undertake, is gaining ground. During the past century, especially, the fundamental changes in political, economic, and social life have caused a complete reversal in the attitude of men to the state. While the private life of individuals is under less state supervision than formerly, there is a growing demand for increased activity on the part of the government in fields formerly private but now affected with a public interest.

29. Conceptions of law. The conception of law has likewise undergone a decided transformation. Originating as custom, supported by immemorial tradition and the prevailing belief in divine

[1] Hobhouse, Social Evolution and Political Theory, pp. 163–164.
[2] See below, Chapter V.

sanction,[1] law was later considered as existing in nature, to be discovered and applied by man. Only the more advanced peoples ever attained to the idea that law, as the will of the state, should be formulated and administered by its governmental organs. Hence, the state, entering as the arbiter to enforce existing customs and decide disputes arising under them, finally became the source and the sanction of law. The purpose of law has undergone a similar change. The earliest codes were a series of negatives.[2] They aimed at restraint, were composed of prohibitions and compulsions, and enacted punishments. At present, law, instead of being negative, prohibitive, and individual, is positive, permissive, and social. Only a small part of modern law consists of restraints laid upon aggressive, nonsocial individuals; a much larger portion consists in attempts to prevent wrongdoing or the conditions that make it possible, and to perform services for the promotion of general welfare. Law has become one of the chief means by which intelligent selection has replaced natural selection in human evolution. Our legislative bodies constantly act with reference to the effect of laws upon society.[3]

30. Conceptions of the basis of political authority. Besides, changing conditions have modified the conception of the basis of political authority. At first the ruler was lord of his *people*. The state was a collection of individuals, sometimes without permanent abode, and obedience was a more or less personal matter, rendered to the chief or king because of his position in the kinship group or his supposed relation to the gods. As life became more stable and agriculture and trade necessitated permanent homes, especially after feudalism associated the ideas of governing power and landholding, the concept of *territorial* sovereignty arose. Kings became lords of the land, rather than of the people, — of England and of France instead of the English and the Franks, — and questions of citizenship and allegiance became of more importance than those of religion and birth. At present the authority of the state has, fundamentally, a territorial basis, the

[1] Bryce, Studies in History and Jurisprudence, pp. 638–668.
[2] For example, the Ten Commandments of the Hebrews.
[3] Parsons, Legal Doctrine and Social Progress, pp. 98–101, 216–219.

jurisdiction of the state coinciding with its area and extending over all persons within its domain. There are, at the same time, certain survivals of personal allegiance, in the form of exterritoriality and exemptions from jurisdiction.[1]

31. Conceptions of the social bond. This same process may be viewed also from the standpoint of the fundamental social bond uniting individuals, or the dominant force which gives its character to the social union at different periods of political development. These primary ties have been, first, kinship; second, authority; and third, citizenship. Through all these stages religion has been a powerful bond, strengthening the hold of the other factor upon the minds of men. The lower forms of society rested in a special way upon the blood tie. Whatever principles of descent or of marriage prevailed, primitive societies depended upon kinship, developing naturally from the family instinct and the groupings that result from it, and being supported by the religious worship of ancestors. The growth of society demanded closer integration and more powerful authority. Warfare especially, in increasing discipline and obedience, strengthened the power of the chieftain and, in establishing relations between conquerors and conquered, built up a new form of society based on force. The ruler surrounded himself with ceremony, added the religious support of divine right to his position, and strengthened himself by distributing territory and authority to his most powerful followers. In this way the despotic monarchies and the feudal lordships were established, a fundamental change in the conception of the nature of political organization replacing the earlier kinship grouping, and law as a command imposed by a superior replacing the earlier sacred customs.

Civilized peoples alone have reached the third stage, where the relations of government and governed are in a fashion reversed. The citizens form the state, and the government is their servant. The civic bond consists in a general realization of obligation as among the individual members of the state, and as between the state and its members. Government comes into close relation with the actual life of the people, and law is an expression of the will of

[1] Lawrence, Principles of International Law, Part II, chap. iii.

those who obey it. While the principle of citizenship in modern states is complicated by the necessity of uniting diverse nationalities and of dealing with subject peoples, it renders possible a form of union as vital and enduring as the kinship clan, and as wide and orderly as the despotic empire. At the same time it "adds a measure of freedom to the constituent parts and an elasticity to the whole which are peculiarly its own." [1]

32. Conceptions of relations among states. In the relations among states, especially great changes have taken place. In ancient times states knew little of one another. Their dealings were mainly in unregulated war, and no rights or obligations were acknowledged except to peoples of the same race. The Greeks developed crude commercial codes, and Rome, in her *jus gentium*, seemed to find certain natural laws common to all peoples; but international relations, in the proper sense of the term, did not exist. The establishment of the Roman Empire, including the whole civilized world, made international relations impossible; and for a long time, even after Rome's fall, the ideal of a supreme world power prevented the rise of independent and equal states. Toward the end of the Middle Ages the growth of modern national states, nearly equal in power, and with relations in peace and war that demanded regulation, made possible the existing theory of international relations and gave birth to international law. At present, the establishment of colonial empires, protectorates, and spheres of influence, the existence of theories such as the balance of power and the Monroe Doctrine, together with the tendencies toward international unity, as manifested in the recent Hague conferences,—all seem to indicate a new transitional stage in international development, and the results of these contradictory tendencies cannot, at present, be foreseen.[2]

33. Conceptions of relation of state to individual. In the relation of the state to its component individuals, development has followed two main lines. On the one hand has been the necessity for making the authority of the state more definite, sure, and powerful, and at the same time for marking off clearly and protecting

[1] Hobhouse, Social Evolution and Political Theory, chap. vi.
[2] Hill, World Organization and the Modern State.

absolutely a sphere of freedom, within which the individual may live and act without interference from other individuals or from the government.[1] On the other hand has been the question of the share of the people in governing power, and, as political consciousness spread throughout the mass of the population, a constantly increasing popular influence in government has resulted. By these two processes the relation of sovereignty to liberty has been adjusted, and by the establishment of both civil and political liberty, that is, of freedom from interference and of a share in governing, the state has been founded on the secure basis of self-government. Finally, by the principles of local self-government and representation, an organization which secures unity in common affairs without sacrificing individual liberty is made possible, and democracy over large areas is at last secured. In this way, also, the activities of the state, formerly feared as representing the irregular and capricious will of a despot, are now welcomed as the will of the people; and a constantly growing field, in the form of definite and uniform legislation, is opening to collective activity.[2]

34. General conclusions. Several generalizations regarding the process of state evolution may be added. As in the evolution of all advancing organizations, the process has been from the simple to the complex. Governmental organs have differentiated and their functions become more definite, and this process has been characterized by increasing unity as the interrelation of part and part became more complete. This process has also been accompanied by the growth of purposeful action on the part of the citizens of the state. Early stages of political union were largely intuitive, but man gradually came to realize the possibilities of change due to his own efforts, and the organization and functions of government were regarded as subject to conscious progress and reform. In general, an increase in the area and population over which the sovereignty of the state extends has characterized the evolution of the state. Man's advance in political ability, making possible the successful working of governmental organization over large areas, the development of communication and transportation, and the improvements

[1] Scherger, Evolution of Modern Liberty, Introduction.
[2] Dealey, Development of the State, chap. xv.

in economic conditions, enabling a given area to support a dense population, — all tend to increase the size of the state and the number of its citizens. Political development has also been characterized by a shifting of emphasis from military to industrial activities. Improved methods of production and coöperation created an economic surplus. This freed man from the danger of famine, removed much of the temptation to warfare, and encouraged commercial relations. It also afforded leisure and made possible the rise of art, literature, science, and philosophy. By such means primitive cultures were changed into civilizations, the struggle for existence was raised above the level of the brute world, and increasing dependence was placed on the intellectual and ethical factors in human progress.[1] Improved political methods were both a cause and a result of this process.

[1] Russell, First Conditions of Human Prosperity; Chapin, Introduction to the Study of Social Evolution; Ward, Applied Sociology.

CHAPTER II

INFLUENCES AFFECTING POLITICAL EVOLUTION

I. General Nature of Influences

35. Early theories of political development. The intellectual point of view that considers the state a result of evolution is comparatively recent.[1] Less than a century ago many historians were content to describe facts, usually of a political nature only, and to explain them, if any explanation seemed necessary, on the basis of the "great man" theory, or by a vague reference to the "genius of the age." On the other hand, "philosophies of history" were built up by philosophers who had little knowledge of historical facts.[2] Many viewed social progress as depending fundamentally on religion, not realizing that religion is a product as well as a cause of human development. Still others held to the doctrine, which is as old as Aristotle, that the state progressed in a definite way from monarchy to aristocracy, from aristocracy to democracy, and showed a continuous and orderly growth from tyranny to freedom.

36. Evolutionary theory of political development. The failure of these idealistic explanations cleared the way for those writers who looked to physical rather than psychical forces, and who emphasized the importance of the natural environment,[3] and of the economic factors underlying man's material existence.[4] This movement, combined with the gradual acceptance of the Darwinian theory of evolution, and its application to the development of social institutions as well as to living organisms,[5] made possible

[1] Seligman, Economic Interpretation of History, Part I, chap. i.

[2] For example, Rousseau's Social Contract.

[3] Montesquieu, Spirit of the Laws; Buckle, History of Civilization in England.

[4] Karl Marx, Capital; Contribution to the Critique of Political Economy, Preface.

[5] Spencer, Principles of Sociology.

a conception of human progress that views the present as a logical outgrowth of the past, that sees the interrelations between institutions and environment, and that analyzes, in a partial way at least, the various forces that influence the structure and functions of human society.

37. Natural and social evolution. At the same time it is realized that social institutions, in large part the deliberate work of man, are, to a degree, outside the usual laws of organic evolution. The ability of man consciously to adapt himself to his surroundings and to modify his environment makes him less and less dependent upon physical conditions and gives prominence again to the psychical elements, since as man conquers nature he becomes in greater measure the arbiter of his own destiny.[1] The process remains, however, an evolutionary process, with the new and powerful factor of purposeful human effort added.

38. Importance of the future in present theory. Another, and a more recent, result of the evolutionary conception of human progress has been to shift the emphasis formerly placed entirely on the present and on its relation to the past, to the future and to its relation to the present.[2] Men no longer look forward to an ideal society which is to be perfect and permanent. They realize that progress is continuous, hence in planning for the present they consider also the future; and, as reasoning creatures, realize that the interests of the present and of the individual must often be subordinated to those of the future and of the race in general.

39. Complexity of political evolution. The development of the state, one of the most important and most universal of social organizations, illustrates with unusual clearness the principles of social evolution. At the same time, the complexity of the process and the multitude of forces involved make it especially difficult to distinguish the influences that cause or that modify political existence. Forces that appear powerful may be secondary results of hidden causes. Influences affecting one time or place are absent in others. Different conditions yield varying reactions to otherwise similar causes. Physical and psychical elements, individual and social

[1] Ward, Applied Sociology. [2] Kidd, Western Civilization.

motives, all in varying combinations and interrelations, exert their influence on the origin, development, organization, and functions of each state; and the relations of states, one to another, further complicate the process. However, without attempting to distinguish primary from secondary causes or to trace intricate interrelations, and with no claim to exhaustiveness, we may distinguish some of the more important influences that have affected political evolution.

II. The Physical Environment

40. Elements of the physical environment. All political development takes place under certain physical conditions resulting from geographic location and structure, climate, and natural resources, — mineral, vegetable, and animal. The influence of these factors is always powerful and sometimes decisive.[1] The theory of the predominant influence of the external world on human affairs is chiefly associated with the name of Buckle, although several earlier writers[2] had attacked the "great man" theory, and laid emphasis on the general aspects of society and the influence of the physical environment. Since the time of Buckle, writers who have shown that political and social development is largely determined by the influence of the external world have become numerous.[3]

41. Geographic contour. Geographic contour includes the extent and arrangement of land and water areas, and the size and position of mountains and rivers. It gives an earth divided by nature into a number of land units of various sizes and of various internal formations, whose external natural boundaries are more or less distinct and unbroken. These divisions affect the size of states, since, other things being equal, political areas tend to coincide with geographic units.[4] Natural barriers separate peoples in proportion to the difficulty of surmounting them, to the pressure

[1] Semple, Influences of Geographic Environment; Ripley, "Geography and Sociology," in Political Science Quarterly, Vol. X, No. 4.

[2] Bodin, De Republica Libri Sex, Lib. V, cap. i; Vico, Principii di una Scienza Nuova d'intorno alla Comune Natura delle Nazioni; Montesquieu, Spirit of the Laws, Bk. XIV.

[3] For example, Rogers, Ratzel, Loria, Cunningham, Seligman, Patten, Semple, and Brooks Adams.

[4] Burgess, Political Science and Constitutional Law, Vol. I, pp. 5–29.

of population against them, and to the engineering ability and the development of transportation among those who dwell on either side. Great plains or river valleys are the natural homes of extended empires, while islands or mountain valleys are adapted to smaller and more distinct political units. China, India, and Russia illustrate the former; Greece, Switzerland, and the British Isles, the latter. Geographic contour also affects the isolation of the state and the direction of its external activity, since social movement tends to follow lines of least resistance; and the trend of migration, conquest, and commerce coincides with natural highways on land or sea.[1] The geographic position of a state often determines its greatness; those peoples who occupied a central position in the civilized world of their day — such as the Phœnicians, Greeks, Romans, the inhabitants of the Italian cities, Spain, England, and the United States, in turn — acquiring eminence because controlling the trade routes in all directions.[2]

42. Climate. Climate, including natural conditions of light, heat, and moisture, affects chiefly the individual human being and the fertility of the soil.[3] Climatic extremes of any kind are unfavorable to the highest political life, all the great states having arisen in those parts of the temperate zone that receive a moderate rainfall. Civilization, starting in the subtropical climates of Mesopotamia, China, India, and Egypt, crept north and west as man acquired the art of creating a climate of his own. This movement was different from most of the migrations of peoples, which were usually from a less to a more favorable environment. The rise of states in the cool and bracing air of Europe illustrates the ability of man by intelligent effort to resist and overcome an unfavorable climatic condition and to make more rapid progress in a somewhat artificial environment which in the end proves to be better adapted to continuous progress. With the extreme heat of tropical deserts and the extreme cold of arctic ice fields, man is still unable to cope. Climate also affects the birth rate and the age of maturity;

[1] Fairbanks, Introduction to Sociology, pp. 72–75.

[2] Brooks Adams, The New Empire.

[3] Semple, Influences of Geographic Environment, chap. xvii; Huntington, "Changes of Climate and History," in American Historical Review, January, 1913, pp. 213–233.

and the greater vigor of upland races, long noted for warlike ability, is at least partially due to the influence of rare, dry air.[1]

43. Natural resources. Natural resources — mineral, vegetable, and animal — are powerful factors in state development. In ancient times the use of stone, bronze, and iron for implements and weapons marked distinct stages of progress. The use of gold and silver as standards of value revolutionized trade and led to colonization and wars for the possession of these precious metals.[2] In the modern industrial age, deposits of coal and iron are essential. Early states arose where nature furnished food in abundance; and the great food staples — rice, wheat, corn, the banana, and the palm — have enabled certain areas to support dense aggregations of people, among whom political institutions have of necessity been developed. The importance of spices in the Middle Ages and of cotton in the history of the United States needs but to be mentioned. Among primitive peoples the presence of game and of animals suited to domestication have largely determined the status of their civilizations.

44. General aspects of nature. It has even been claimed that the general aspects of nature influence the type of society.[3] When man is surrounded by terrible earthquakes, volcanoes, hurricanes, avalanches, great mountains, or vast deserts, he hesitates to investigate, he lacks self-reliance, he becomes superstitious, and his civilization stagnates. If no awful phenomena hold man in terror, his mastery over nature progresses more rapidly, and individualism and reason develop. Of the two types, India and Greece may serve as examples. It is, of course, easy to exaggerate the importance of single influences and to fail to discover underlying causes or complex interrelations. The ignorance, superstition, and stagnation of India were also the results of her isolation, while the accessibility and central location of Greece made her an intellectual clearing house and developed imagination and reason. Even political policies frequently have geographic bases. Witness the colonial policies of Holland and England, the militarism of Germany, the European balance of power, and the American Monroe Doctrine. Political

[1] Spencer, Principles of Sociology, Vol. I, pp. 20–23.
[2] Brooks Adams, Law of Civilization and Decay.
[3] Buckle, History of Civilization in England, Vol. I, pp. 85–87.

parties often follow geographic lines of cleavage. North and South in the United States have stood arrayed against each other on many issues; while in England the southeastern plain and the northwestern highlands were opponents in the War of the Roses, the Civil War, the contest over the repeal of the Corn Laws, and over the Reform Bill of 1832.[1]

III. Economic Conditions

45. The economic interpretation of history. Of such great influence on the development of social institutions have been the underlying conditions affecting the satisfaction of man's material wants that some thinkers have interpreted all human progress on the basis of economic changes. Aristotle recognized clearly the political influence of economic factors;[2] Machiavelli believed that the best form of government for a given state depended largely upon the economic condition of its people.[3] Morgan considered it probable "that the great epochs of human progress have been identified, more or less directly, with the enlargement of the sources of subsistence."[4] Marx and Engels developed the theory of socialism fundamentally upon a materialistic conception of the nature of social development.[5] Seligman states the thesis of the economic interpreters of history as follows: "The existence of man depends upon his ability to sustain himself; the economic life is therefore the fundamental condition of all life. Since human life, however, is the life of man in society, individual existence moves within the framework of the social structure and is modified by it. What the conditions of maintenance are to the individual, the similar relations of production and consumption are to the community. To economic causes, therefore, must be traced in last instance those transformations in the structure of society which themselves condition the relations of social classes and the various manifestations of social life."[6]

[1] Semple, Influences of Geographic Environment, p. 52.
[2] Dunning, Political Theories: Ancient and Medieval, pp. 74, 86, 96.
[3] Ibid. pp. 307–309. [4] Ancient Society, p. 19.
[5] Hillquit, Socialism in Theory and Practice, chaps. iii–iv.
[6] Seligman, Economic Interpretation of History, p. 3.

46. Importance of the economic environment. In spite of the defect in any theory that attempts a universal explanation from a one-sided viewpoint, and in spite of overdrawn applications of the truths in the theory, the fact remains that the economic influence has always been of the utmost importance in human history and that the organization and the functions of government are profoundly affected by the conditions of production and of distribution.[1] One of the most convenient ways to characterize the great stages in the evolution of civilization is according to the predominant mode of industry. Thus we speak of the hunting and fishing stage, the pastoral stage, the agricultural stage, the handicraft stage, and the modern industrial and commercial stage.[2] The growth of man's skill in working metals leads to distinctions between the stone age, the bronze age, and the iron age. Similarly, the transition from barter to the use of money, or from cannibalism to slavery, or from serfdom to free labor, mark the beginnings of new eras. All these broad generalizations show the fundamental importance of the economic environment.

47. Property and political evolution. The development of property has been responsible for much political progress. Its rise transformed the organization of the family and created that patriarchal type from which the more advanced states emerged. The need of protection for property led to organization, authority, and government. Disputes concerning its possession were responsible for much early law. Control over government has often been limited to the wealthy classes; and modern states retain property qualifications for the suffrage, or give special powers or privileges to the larger property owners. The three-class system of voting in Prussia and the system of multiple voting that obtained until recently in Belgium are examples.[3]

48. Economic bases of state types. The type of state existing at any given time will be found to have an economic basis. In the Oriental empires ease of securing food led to large population,

[1] For a suggestive, but somewhat biased, interpretation of the history of the United States from a materialistic point of view, see Simons, Social Forces in American History. [2] Ely, Evolution of Industrial Society, pp. 26–73.

[3] Lowell, Governments and Parties in Continental Europe, Vol. I, pp. 303–311; Dupriez, L'Organisation du Suffrage universel en Belgique.

slavery, and despotism. The comparatively unfertile soil of Greece led to colonies and commerce, her wine and olive oil serving as means of exchange. The causes of both the formation and the decline of the Roman Empire were largely economic, national progress being bound up with the land question. Feudalism rested on land as the sole source of wealth, and on the absence of intercourse, commerce, and trade. The colonial empires of the present day not only contribute to national prestige, but are built up also for the purpose of securing raw materials or of furnishing markets for home industries. Many of the wars of the past two centuries have been fought because of colonial or commercial rivalries,[1] and the condition of present-day international politics is dominated by economic considerations. In some states the party of organized labor is strong enough to hold the balance of governmental power; while socialism, the only important international political party, rests its assumptions upon an economic interpretation of historical progress. "When we approach the centuries nearer our own time, it has almost become a commonplace to explain in economic terms the political transition of England in the eighteenth century, as well as the French and American revolutions. To take only a few examples from more recent events, it is no longer open to doubt that the democracy of the nineteenth century is largely the result of the Industrial Revolution; that the entire history of the United States to the Civil War was at the bottom a struggle between two economic principles; that the Cuban insurrection against Spain, and thus indirectly the Spanish-American War, was the outcome of the sugar situation."[2]

49. Economic bases of human types. Even the type of man's mental ability and character has been largely created by economic conditions. "A savage, like an animal, has no concentration of mind and lacks imagination. He is savage in disposition only when ill-fed or ill-treated. Otherwise he is peaceable, good-natured, and indolent. Patriarchal life, holding as it did the mass of its population at hard labor, developed in them patient endurance and tireless industry, but no high mentality. That developed in the

[1] The Napoleonic wars, the American Civil War, and the Franco-Prussian War were, of course, important exceptions.

[2] Seligman, Economic Interpretation of History, pp. 85–86.

elders and masters, who, having much leisure, besides domineering, aggressive qualities, developed also mental acumen and philosophical insight, always characteristic of the higher classes of patriarchal systems. Commercial life demands aggressiveness, ingenuity, mental alertness, and ruthlessness in stamping out opposition. An age of production through machinery demands scientific insight, executive capacity, and ability to master details. In the type of the dominant peoples of western civilization we find a composite of these qualities. Civilized man is regularly ruthless and merciless to an opponent, but is kindly and sympathetic when opposition has ceased. He is guided by ideals when material interests are not involved, but is selfish and covetous at the possibility of gain. He is masterful in dealings with inferiors, resourceful when necessity arises, capable of patient toil and hardship, yet is fond of ease and relaxation. Energetic, keen-minded, inventive, and idealistic, he combines in himself the best and the worst of humanity." [1]

50. Business and politics. At the present day, the connection between business and politics is closer than ever. Most of the laws passed by legislatures have for their purpose some regulation of economic conditions, and most of the influence brought to bear upon government has its source in industrial or commercial interests. At the same time, since all economic action takes place within the framework of the state and is conditioned by its laws, economic forces may be checked or modified by political authority. Tariffs, labor laws, and the regulation of monopolies are examples of governmental interference in the working out of economic forces. The relation between politics and economics is therefore a mutual one, constant action and reaction taking place.[2]

IV. Other Social Institutions

51. Organizations within the state. The state, as one of the organizations that has developed because of the social relations of mankind, is affected, in its evolution, by other organizations, non-political in nature, that have arisen to meet the varied needs of

[1] Dealey, Development of the State, pp. 24–25.
[2] Seager, Introduction to Economics, chaps. xx–xxix.

social life.[1] In some cases the beginnings of these institutions were closely connected with the beginnings of political life, and their evolution was marked by increasing separation and distinctness. Of such nature were the kinship and religious groups from which the family and the church arose. The early history of the state shows little differentiation among the affairs of family, religious, and political life. The principle of heredity is a surviving remnant of kinship in politics, and the church has always been a powerful influence in the state. Sometimes groups arose within the state, usually on economic issues, and became strong enough to influence state evolution. Of such nature were many of the Oriental castes, the Greek and Roman factions, and the medieval guilds. In modern states organized labor and the great financial, industrial, and commercial corporations play no small part in politics. Still other groups have arisen, avowedly for political purposes, yet of a voluntary nature, and largely outside the legal control of the body politic. Of this type, political parties and the political "machine" and "boss" are the best examples. Educational institutions, especially the public schools, have enormous political significance; democracy would scarcely be possible without them.[2] Behind all these institutions stands that mass of public opinion and custom, and those ideals which, though unexpressed in social institutions and sometimes even unformulated, are nevertheless a part of the environment within which political evolution takes place.[3]

V. Race and Nationality

52. Racial differences. Whatever may have been the causes of original racial distinctions,[4] it is evident to-day that the various races show decided differences in their political ability and ideals, and these are reflected in the political institutions under which they

[1] See below, Chapters IV–V.

[2] On the relation of the state to education, see McKechnie, The State and the Individual, chap. xxv.

[3] On the power of the idea in history, see Kelly, Government or Human Evolution: Individualism and Collectivism, Bk. I, chap. ii.

[4] For a good discussion of race from the anthropological viewpoint, see Von Luschan, "Anthropological View of Race," in Spiller, Interracial Problems, pp. 13–24.

live.[1] Numerous recent writers have attempted to explain some of the most important phases of human development by the existence of racial characteristics and race conflicts.[2] The theory of "dominant race," according to which powerful peoples may subdue inferior peoples and compel them to assimilate their conqueror's civilization or be exterminated, is gaining ground at present. This process of conquest and assimilation has been one of the greatest factors in human evolution. Every important race has been repeatedly strengthened by amalgamation; decidedly inferior races disappear.[3] Morgan eulogizes the superiority of the Aryan and Semitic peoples and calls them the founders of civilization.[4] The black peoples have never manifested organizing ability and have never developed a true state. Of the yellow races the Chinese, Tartars, and Turks have built up extensive empires, but the Magyars and the Japanese alone have thus far been able to assimilate modern political methods. The outcome of the establishment of the Chinese Republic is being watched with interest as an indication of the ability of Oriental races to absorb western political civilization.[5] Diversity of race within a state may cause serious political difficulties, as the experience of the United States in her relations with the Indians, her negro problem, and her troubles over the exclusion of Orientals bears witness.[6] England in India, and France in North Africa, face serious racial distinctions.

53. National differences within the race. Even in the white race, marked national differences may be observed. The genius of the Semitic peoples seems to have been along the lines of religion and of business. The Greeks found difficulty in political union. Celts and Slavs, on their own initiative, scarcely progressed beyond the clan or village-community stage of organization. Romans and Teutons alone seem to have possessed the ability to govern, to organize widespread empires on a permanent basis, and to work

[1] Bluntschli, Theory of the State, Bk. II, chap. i.

[2] Gumplowicz, Der Rassenkampf; Gehring, Racial Contrasts.

[3] For a good discussion of this theory, see Gumplowicz, "Grundriss der Sociologie," trans. by F. W. Moore in Annals of American Academy of Political and Social Science, 1899.

[4] Ancient Society, pp. 39–44.

[5] Ross, The Changing Chinese.

[6] Coolidge, United States as a World Power, chaps. ii–iii.

out successful systems of law.[1] A recent author explains many contrasts in the political development of Græco-Latin and Teutonic peoples on the basis of differences in national psychology. "The celerity of action in the south throws light on the frequency of assassination in Latin countries; it enables us to understand the enthusiastic support received by victorious generals and the speedy disgrace awaiting defeated ones; it explains many episodes in the revolution of 1789, and furnishes the reason for the general instability of governments among the Romance races. Likewise the cause of many enactments which are not necessary among calmer peoples. In the French constitution, for example, there are special provisions designed to make sudden changes in the government impossible; and the inflammability of the Gallic nature necessitates the rule that when the president of the Chamber of Deputies puts on his hat all argument must cease. The inertia of the Teutons is accountable for the calm deliberation prevailing in Germanic legislative bodies; and it had much to do with the disruption of the old German Empire and its long inability to revive. The persistency of the Teutons is shown in the patience and diligence of the German laborer, the tedious researches of the university professor, the dogged resistance of the English soldier, and the indomitable energy of the Yankee speculator. It may account for their marvelous success in colonization and their mastery over the material world; for the commercial prosperity of the Dutch during the seventeenth century, the English supremacy of the last hundred years, and the German and American emergence of to-day."[2]

54. National vigor and decadence. Moreover, peoples manifest periods of vitality and of decadence, and their states rise and fall correspondingly. Racial vigor and ability are also affected by migration to new surroundings and by intermarriage with other peoples; and new nationalities, such as the American, may arise from such causes. National spirit or patriotism, feelings of racial supremacy or, in earlier times, of family or tribal exclusiveness, have also affected the course of political development. Even in the modern world the general tendencies of national genius may be

[1] Burgess, Political Science and Constitutional Law, Vol. I, pp. 30–40.

[2] Gehring, Racial Contrasts, pp. 96–98.

observed, all the leading states contributing something distinctive to the progress of civilization. "From England came an efficient judicial system, a successful colonial policy and a parliament working out through a joint cabinet an harmonious cooperation of governmental and civic interests. France, a true daughter of the Roman Empire, as shown by its capacity in war, in law, and in administration, came to the front in the eighteenth century, set fire to the dry tinder of European politics and intoxicated the political world with the inspiration derived from the 'Marseillaise,' the pursuit of glory, and the ideals of democracy contained in the motto, 'Liberty, Equality, and Fraternity.' Germany and Japan are adding their contributions to the world state in the form of applications of scientific principles to governmental functions and organization, thereby overcoming natural handicaps. The United States also is no mean factor in the modern political world. From it has come the federation, the written constitution, a humanitarianism cosmopolitan in its scope, and a wide application of the principles of democracy."[1]

VI. Great Men

55. Dependence of great men upon their times. It is easy to overestimate the influence of certain overshadowing individuals on the development of the state. Alexander, Cæsar, Charlemagne, Napoleon, Bismarck, and many others seem to have held the destiny of states in their hands and to have made and unmade governments at their pleasure. The importance of such men is enormous, and without their thoughts and actions political progress would doubtless have been considerably delayed. Nevertheless, the great man is fundamentally dependent upon the social environment within which he is created, and his influence is felt only when society is ready for him.[2] His greatness consists chiefly in that he expresses more successfully than others the spirit of his age, or that he is able to persuade his community to accept new ideas as in harmony with their conditions and their ideals.

[1] Dealey, Development of the State, pp. 232–233. See also Giddings, Democracy and Empire, chap. xix.

[2] James, "Great Men and their Environment," in The Will to Believe and Other Essays in Popular Philosophy.

56. Importance of the individual. At the same time, the state, as a social institution, is composed of men and may be altered by men. Men are the product of history, but history is made by men.[1] "Because one man in certain conditions acts in a specific way, it is by no means certain that another will under the same circumstances act the same. Simply because an individual acts in this way to-day, it is not perfectly certain that he will take the same action to-morrow. When we are dealing primarily with human beings, we cannot be quite certain what will happen next, although when we deal with individuals in great numbers, so that, as the wit has said, the person under consideration is not a man but a 'statistic,' we may reach some very general conclusions."[2] Free power of action, exercised by individuals and by nations, opposes the fatality of nature and the fatality of historical sequence.

57. Relative importance of the individual now and formerly. Ancient history seems to be largely the history of a few men; modern history tends to be a history of the people. While this apparent difference is partly due to a lack of historical knowledge among primitive peoples, and to the tendency of early writers to dwell on the picturesque or dramatic achievements of the few, it is also probable that in the absence of enlightenment in ancient times, the masses followed rules of habit, whereas in modern times leaders are followed less blindly, and institutions and popular movements perform services which in the past were the work of heroes. On the other hand, the importance of the individual, in some respects, seems to increase with the development of social life. Early society was composed of individuals with like occupations, habits, and ideas. Even in physical make-up it is probable that the most highly civilized peoples show the widest variations.[3] In a highly developed society we find individuality more marked, and specialized types of men, mentally and physically, result. This differentiation is not only a sign of social evolution, it also makes possible those unique individuals who, as leaders or prophets, direct social progress.

[1] Seligman, Economic Interpretation of History, pp. 96–101; Hinsdale, How to Study and Teach History, chap. xi. [2] Jenks, Principles of Politics, p. 18.
[3] American Anthropologist, Vol. XI, p. 347.

VII. Religion

58. Religion as a political factor. Religion was one of the earliest and has been one of the most powerful and constant influences affecting political development. Early kinship groups were held together by the worship of common ancestors;[1] and a supernatural sanction, needed to restrain primitive and undisciplined men; was added to the authority of rulers. So closely related, in fact, were religious and political institutions in the early history of the state that little distinction was made between the precepts of religion and the laws of the state, both consisting of customs, supported by usage and divine sanction;[2] and the duties of priest and of magistrate were combined in the same persons. This supernatural sanction has been added to political authority whenever an uncivilized people has been raised from barbarism. The Teutonic tribes that overthrew the Roman Empire formed the states of modern Europe only with the aid of the Roman church. Religion has also been an able ally of monarchy. The Oriental despots were demigods; Alexander and the Roman emperors found a divine background useful; the absolute monarchs of the seventeenth century depended upon the divine-right theory; and the Russian czar and the Japanese mikado still derive support from the religious reverence of their peoples.

59. Religion as a means of social control. In another respect religion has been a valuable social force. The interests of the individual at a given time and the interests of society as a whole are sometimes antagonistic. In the struggle for existence, unselfishness, truthfulness, charity, and other attributes may not further the success of the individual, yet they are valuable social virtues, and indirectly elevate the plane of struggle even for the individual. The supernatural sanction of religion and the consolation which it affords have often been used to induce the individual to sacrifice his interests for the sake of society at large, and to follow a line of conduct that his individual reason could not sanction.[3] The church, instituted at first for culture, became a powerful agent of control.

[1] De Coulanges, Ancient City. [2] Maine, Ancient Law.
[3] Kidd, Social Evolution; Ross, Social Control.

60. Religion and patriotism. A common religious zeal has often inspired the spirit of unity that forms nations and states.[1] The national spirit of the Hebrews had a distinct religious basis, and the great Mohammedan Empire was largely the embodiment of a religious ideal. In the Middle Ages the theory of the Holy Roman Empire was undoubtedly influenced by the theory of the universal church.[2] The connection between Protestantism, especially of the type of Calvin, and democracy is a commonplace in modern historical knowledge;[3] and the local government of New England, originally the organization of religious congregations, laid the foundation for the American Republic. Patriotism in modern Japan is largely a religious sentiment.

61. Christianity and warfare. The changes during the Middle Ages in the attitude of the Christian church toward warfare furnish a good example of the influence of political conditions upon religion and of the reaction of religion upon political development. Early Christianity was a religion of universal beneficence. Its attitude was one of passive protest; its ideal courage was the endurance of injustice. The early church taught that no Christian should bear arms, and in the Roman Empire the Jewish Christians were not subjected to military service. As the church spread into the West, active missionary zeal replaced the former idea of passive endurance. Later, the Mohammedan peril compelled the Christian world to organize, first for defense and afterward, when the military spirit of Mohammedanism had passed into Christianity, "every pulpit in Christendom proclaimed the duty of war with the unbeliever, and represented the battlefield as the sure path to heaven."[4] As a result, the church supported the imperialistic spirit and for centuries wars imbued with a religious element widened or narrowed the boundaries of states and created enmities that survive to this day.

[1] On religion as a consolidating and separating influence, see Rhys Davids; "Religion as a Consolidating and Separating Influence," in Spiller, Interracial Problems, pp. 62–67.

[2] Bryce, Holy Roman Empire, chap. vii.

[3] Osgood, "Political Ideas of the Puritans," in Political Science Quarterly, Vol. VI; Merriam, American Political Theories, chap. i.

[4] Lecky, History of European Morals, Vol. II, pp. 262–290.

62. Religion as a disruptive factor. At the same time, religion may be a disruptive political force.[1] The fall of the Roman Empire was hastened by the rise of Christianity, which attacked the worship of the emperor, and which weakened patriotism and interest in affairs of government.[2] Similarly, after the Protestant revolt, wars over religious issues devastated a large part of Europe and delayed the formation of national states. Differences in religion have always been a prime source of hatred, of persecution, and of war; and a religious cloak has been used, whenever possible, to cover the aggressions of a conqueror. Religious pilgrimages have given rise to commercial and political expansion; the religious motives of the Crusades covered a vast amount of territorial and commercial greed; the Thirty Years' War in Germany was waged under a flimsy pretense of religious zeal; and the establishment of colonial empire has often been preceded by political activity on the part of missionaries.[3]

63. Church and state. While, in many parts of the world, church and state are still allied, the more advanced states have divorced religion and politics. Yet, political parties formed on religious lines are found in several European states,[4] and the legal systems of the most liberal peoples rest on a Christian civilization which unconsciously influences the nature and the activities of government. Socialism, one of the most powerful factors in present-day politics, has many of the features of a new religion.[5]

VIII. Growth of Knowledge

64. Natural science and political progress. The growth and diffusion of knowledge has reacted on political evolution in several ways. Intelligence, which distinguishes man from the lower animals, replaces natural evolution by human evolution, creates an artificial

[1] Bryce, Studies in History and Jurisprudence, pp. 238–241.

[2] De Coulanges, Ancient City, pp. 519–529.

[3] For the relation between missions and political dominion, see Caldecott, "Influence of Missions," in Spiller, Interracial Problems, pp. 302–312; Reinsch, Colonial Government, chap. iii.

[4] Lowell, Governments and Parties in Continental Europe, Vol. I, pp. 204–206; Vol. II, pp. 12–16.

[5] Patten, Social Basis of Religion.

environment, and changes the whole nature of the process.[1] Intelligence sometimes interferes with the process of natural evolution by fighting the environment; at other times it hastens the process of natural evolution by learning the laws of the natural environment and bringing them more fully into effect. Advance in natural science has given man a greater control over nature and has led to inventions that have revolutionized methods of production, transportation, and communication, with resultant shifting of political boundaries and political influence. The railway and the telegraph make possible a democratic state with large territorial extent; improvements in ocean navigation, with resultant commercial and colonial development, have shifted the emphasis from military to naval strength as the decisive factor in international conflicts.

65. Social science and political progress. Advance in social science — in politics, economics, and sociology — has made possible conscious efforts to improve political institutions, one of the most striking phenomena of the present era in all advanced states. The general diffusion of intelligence has been a powerful influence toward democracy and, by destroying the authority of the narrow classes that formerly monopolized knowledge, — the medieval clergy, for example, — has revolutionized the internal organization of states and the location of political sovereignty. It is a historical law that the progress of modern civilization is marked by a continually growing ascendancy of scientific, social, and therefore intellectual or moral factors, over such as are racial, geographical, and climatic.[2]

66. Importance of growth of knowledge. "Mankind has in general shown an unreasoning respect and veneration for the past. Until the opening of the eighteenth century the former times were commonly held to have been better than the present, for the evils of the past were little known while those of the present were, as always, only too apparent. Men looked backward rather than forward. They aspired to fight as well, or be as saintly, or write as good books, or paint as beautiful pictures, as the great men of old. That they might excel the achievements of their predecessors did

[1] Kelly, Government or Human Evolution: Justice, Bk. II.

[2] Fouillée, Esquisse psychologique des peuples européens.

not occur to them. Knowledge was sought not by studying the world about them but in some ancient authority. . . . It was mainly to the patient men of science that the western world owed its first hopes of future improvement. It is they who have shown that the ancient writers were mistaken about many serious matters and that they had at best a very crude and imperfect notion of the world. They have gradually robbed men of their old blind respect for the past and, by their discoveries, have pointed the way to indefinite advance, so that now we expect constant change and improvement and are scarcely astonished at the most marvelous inventions." [1]

IX. Political Theory

67. Origin of political theory. Side by side with the actual development of political institutions has gone, in the minds of men, the development of political theory. The associated life of men, arising spontaneously and growing at first without conscious direction, came later under the scrutiny of man's reason; and attempts were made, crude enough in the beginning, to explain the nature of political phenomena. Increasing powers of observation and of logical analysis build up a constantly widening sphere of political speculation; and the development of the state in its objective phase of organization and activity was, accordingly, accompanied by its subjective phase — the theory of the state — in the minds of its citizens.[2]

68. Relation between political theory and political institutions. It is evident that, at any given time, a close relation must exist between the political theory of that period and the actual political conditions then existing. Occasionally, philosophers may speculate concerning the ideal state or may draw pictures of political conditions as, in their own opinions, they should be. Even this type of political theory, however, will, if closely examined, prove to be based on the political ideals of its time, and will usually be aimed at certain specific evils to which the conditions then prevailing gave rise. Plato's "Republic," St. Augustine's "City of God," More's

[1] Robinson and Beard, Development of Modern Europe, Vol. I, pp. 157–158.
[2] Willoughby, Political Theories of the Ancient World, chaps. i–iv.

"Utopia," and Bellamy's "Looking Backward" are perhaps the best known of such attempts at political speculation. Yet any student of history can show, in each case, the influence, unconscious but powerful, that the spirit of the times exerted, and can point out the connection between the historical facts and the political ideals based upon these facts.

69. Political theory in a general sense. In its broadest sense, political theory includes all the motives and interests and purposes that direct the opinions of the masses concerning matters of government, and that guide the actions of rulers and statesmen.[1] It therefore follows that much of the political theory of any given time is not put into definite or comprehensive statement. It is found tacitly underlying the form of actual political organization and methods. Where there is one philosopher who is occupied in an impartial attempt to build up a complete system of political theory, there are hundreds of politicians who are interested in a more or less selfish or one-sided political principle which they desire to see incorporated into political practice. Questions of policy almost always require a broad theoretical basis for rejection or approval. Accordingly, political theory must be sought, not only in the writings of those who deliberately attempt to formulate a systematic statement of its principles, but even more in the fugitive and ephemeral opinions of those engaged in actual politics, and in the public opinion to which they appeal. The political theory of the United States illustrates this fact. Americans have seldom been interested in systematic politics; our governmental organization and policy have, in fact, been characterized by frequent inconsistencies. Yet our whole national history has centered around certain political theories which have been powerful enough to cause men to sacrifice for them their lives, and which have now become a part of our national habit of thought. This general political theory is the mental atmosphere within which political evolution, at any given time, is taking place. It is often inconsistent, irrational, and unconscious; nevertheless it powerfully influences actual political life.

[1] Willoughby, "Value of Political Philosophy," in Political Science Quarterly, March, 1900.

70. Political theory in a restricted sense. In its more restricted sense, political theory consists of the definitely formulated principles of men who have attempted a more or less comprehensive explanation of political phenomena, or who have worked out a more or less complete system of political philosophy. To this class belong Aristotle, Machiavelli, Bodin, Grotius, Locke, Rousseau, Montesquieu, Austin, and many others.[1] At the present time political theory is of particular interest and importance. The modern state is finding itself, is settling upon its first principles, is directing its growth, and deciding upon the proper nature and extent of its activities. The tendencies of the times point toward an expansion of state function that has enormous possibilities for good or evil. In the complex civilization of the present day, the relations of state to state and of state to individual demand constant adjustment and readjustment; and this process should rest upon definite and clearly realized principles as to the nature and purpose of political institutions. A knowledge of the origin and development of political organizations and ideas is essential to any successful attempt at explaining or appreciating those of the present; and a realization of the proper purpose and limits of state action would both hasten real progress and prevent extreme and radical attempts at the impossible. A knowledge of past political development, an understanding of present governmental machinery and methods, and a clear conception of future ideals are all needed.

71. Present tendencies in political theory. Moreover, a fundamental change of mental attitude is now revolutionizing political theory. The former attitude was deductive, based on certain axioms as to the traditional nature of political institutions and authority. From these premises conclusions were reached by logic concerning what should be; and political conditions were judged, not in accordance with actual circumstances, but in accordance with prevailing ideals based upon the fundamental assumptions. At present political theory is inductive. "Political phenomena are observed and classified, and generalizations are made from data thus collected. . . . Instead of considering first what ought to be, the aim is to

[1] Dunning, Political Theories: Ancient and Medieval; From Luther to Montesquieu.

consider first what is. As a result, treatises on government are appearing that are not doctrinal in character, like our older manuals on civics and politics, but are descriptive and expository, telling simply and plainly how the public authority under consideration is organized, how it works and with what results. They are studies of political structure and function, conceived in the same scientific spirit as that of a zoölogist examining the fauna of a particular region."[1]

72. Relativity of political theories. It remains to add that political theory is essentially relative in its nature. In the past it grew out of actual conditions and of existing methods of thought; at present it represents our understanding of the political world in which we live and the political ideals in which we believe. No theory of the state can be considered ultimate truth. A century hence, under the changed conditions of that time, our present attitude toward political problems may seem as crude and absurd as many of the theories that arose in the past now seem to us. This does not, however, diminish the necessity that each age should build up for itself a philosophy of the state, based upon its development up to the point then reached, upon the actual conditions then existing, and upon the ideals of the future then held.

73. Political theory both progressive and conservative. It is at once obvious that political theory may be either a conservative or a progressive force in political development. Existing institutions, especially if of long standing, or if of advantage to some powerful class, gather around themselves a mass of traditions and of belief that gives them a certain sacredness and authority and that makes difficult any change. The theory of divine right in the past and, more recently, of *laissez faire* are examples. On the other hand, a large part of political theory has consisted in ideals and reforms that aimed to improve existing evils; and these doctrines have given powerful impetus to political change. The theory of natural rights that underlay the revolutions of the eighteenth and nineteenth centuries, and modern socialism are examples. The radical theory of one age, if successful, may later become the conservative theory, standing in the way of further progress because out of touch with the conditions then prevailing.

[1] Ford, "Cause of Political Corruption," in Scribner's Magazine, January, 1911.

X. Conflict

74. Forms of conflict. Whenever individuals are brought into association, or even into contact, a certain amount of conflict results. This is due fundamentally to the pressure of population on the means of subsistence, and is accordingly more important in the earlier stages of human development when conquest was practically the only means of expansion than in later times when the development of commerce on a large scale and the use of a money economy made possible a more peaceful adjustment of population and subsistence.[1] In its milder stages this conflict takes the form of competition; in its more strenuous stages, of war. Sometimes individuals or institutions are the units in this contest, the struggle taking place within the group. More often social groups form the units, and conflict arises between tribe and tribe, or state and state. Frequently this contest goes on quietly and unconsciously, rival ideas, methods, or interests competing and the most useful or powerful surviving. At other times the conflict is vigorous and deliberate, and means ruin or death to the individuals or groups unable to stand the strain.

75. Importance of conflict. In the evolution of the state, conflict has played a most important part. History shows an incessant movement of peoples, — growth, expansion, and conquest, followed by decline, expulsion, or absorption by new invaders. Europe especially shows traces of countless migrations, the very names of states such as England, France, Scotland, Turkey, and Bulgaria being taken from successful invaders. In early times, efforts to secure favored hunting grounds, ample pasturage, fertile soils, or mineral wealth led to the aggregation of victorious populations in certain areas where first arose civilization and government. By means of war states have been created, combined, and destroyed. Conquering armies built the world states, and naval warfare was a powerful factor in the establishment and rearrangement of modern colonial empires.[2] Much progress could scarcely have taken place without

[1] Spencer, Principles of Sociology, Part V, chaps. xvii–xviii; Robinson, "War and Economics in History and Theory," in Political Science Quarterly, Vol. XV, pp. 581–622.

[2] Mahan, Influence of Sea Power upon History.

war; the suppression of savagery, barbarism, piracy, and despotism has been accomplished only by the use of armed force.

76. Conflict and internal organization. Moreover, conflict has been largely responsible for the internal organization of government in states. Intergroup struggle created higher forms of social organization, since success in competition demanded solidarity and competent leadership. Successful war leaders have become political rulers, and the need for concerted action in aggression or defense has strengthened authority within the state. The most primitive tribes were democratic in their form of government, but despotic authority rapidly arose among peoples who were constantly at war. War also created social classes. When agriculture was developed and slave labor had a considerable value, conquered peoples were incorporated as a subject class. These might later become partially free, and later conquests might thus create a series of classes. The presence of these alien elements in the group also necessitated a strong government to keep them in submission, and the authority created by warfare was strengthened by the results of warfare. Much law owes its origin to the rules enforced by the victors upon the vanquished, and international law is largely the result of international competition and conflict.

XI. Coöperation

77. Coöperation a factor in social evolution. Evolution is not a process depending upon the relation of each individual separately to his environment. Even among animals association and mutual aid give efficiency in the struggle for existence, both against other animals and against nature.[1] Among men, conscious coöperation, beginning probably in the family, soon arose along with competition; and by mutual aid man secured an increased production of necessities and a better organization against internal disorder or external attack. The state was the logical outcome of a certain degree of coöperation; and developing forms of coöperation, involving a more specialized activity of individuals and a closer interrelation of the whole, constantly demanded a more advanced form of social regulation or government.

[1] Kropotkin, Mutual Aid a Factor of Evolution.

78. Virtues created by coöperation. Not only does coöperation give greater efficiency in the struggle for existence, but it develops certain virtues that have enormous social value and that would not be developed if competition among individuals were the only means of progress.[1] Sympathy, benevolence, and altruism, which have little place in the keen struggles of noncoöperating individuals or of rival groups, are found within the group; and one of the essential features of social evolution is the gradual enlargement of the associated group. The larger the group, the wider the scope of generosity and of pity, and the milder the competition for each individual. In this way the whole plane of the struggle for existence is raised. Devices formerly useful in eliminating the unfit, such as slaughter, slavery, and piracy, fall below the plane of competition and are regarded as crimes, incompatible with civilization.

79. Coöperation and natural selection. Moreover, since evolution secures the survival of the fittest under the existing environment, and not necessarily the survival of the best, man in association, by deliberately modifying his environment, may avoid much of the waste involved in the struggle for existence, may create a better environment, and thus aid nature in hastening progress and in securing a more advanced product. Modern sanitation prevents much of the reckless loss of life necessary in the slow and crude process of natural selection. By his inventive genius man multiplies the efficiency of his senses and the skill of his fingers, and secures results impossible for natural selection to accomplish in millions of years. The type of man who would be best fitted to survive under purely natural conditions is not considered the highest type in modern civilization. Men in association, acting with conscious purpose, make their environment increasingly artificial and gain increasing power over nature. Therefore, true progress means that success will more and more be secured by conforming to ever higher ideals.

80. Coöperation in political evolution. The process of coöperation, with its attendant results, has powerfully influenced the evolution of the state. Early industrial and military groups were also

[1] Drummond, Ascent of Man.

political groups, since associated effort demanded direction and authority. The development of sympathy and altruism strengthened obedience, public spirit, and patriotism; and the purposeful efforts of man to improve his environment found expression in social legislation and in political reform.[1] Moreover, men in coöperation, acting through the state, are constantly raising the plane of competition and conflict by legal regulations which exclude certain methods or prevent certain evils. The modern struggle for existence, based largely upon property and contract, takes place almost entirely within the legal framework established by political authority.

XII. Imitation

81. Unconscious and deliberate imitation. Social institutions and activities that prove successful are often spread widely by adoption at the hands of peoples other than those among whom they originated.[2] This adoption may be the unconscious result of a general influence, or *Zeitgeist*, that obtains because of a widespread and uniform change in fundamental conditions. Of such nature has been, in all civilized states, the growth of democracy and of certain concepts of political and civil liberty during the past few centuries. On the other hand, states sometimes create or modify institutions in deliberate imitation of other states; and in this sense imitation becomes a direct and active force in state evolution. The written constitution of the United States has served as a model for numerous later republics, and the parliamentary system of England has been widely copied. A more recent example of political development by conscious imitation is found in American cities, many of which have in the last few years adopted the commission plan of municipal government.[3]

82. Widening area of imitation. In the past, when life was isolated and means of intercourse were few, imitation was practically limited to the transmission of traditions within comparatively small and stable groups. Customs and types of thought were handed down within the group from the remote past. The development

[1] Patten, New Basis of Civilization, chaps. viii–x.
[2] Tarde, Les Lois de l'imitation.
[3] Bradford, Commission Government in American Cities.

of communication in modern times has widened the outlook of the more advanced peoples, and the traditions of each must compete with numerous contemporary influences that originate elsewhere. The breadth of the movement, rather than its length, is noticeable; all the known past is accessible anywhere, and whatever suits the taste may be appropriated.[1]

83. Dangers of imitation. One fact connected with this method of growth through imitation needs to be noted. It frequently happens that institutions, when transplanted to alien soil, work in a different manner and follow a different course of development from those upon which they were modeled. The most successful political methods may prove lamentable failures when attempted in other surroundings or by unfit persons.[2] The cabinet system of France will not work like that of England because the party system, upon which the principle of cabinet government rests, differs decidedly in the two states.[3] In the Latin-American republics, democratic forms of government fail to work in the same way as in the United States because of differences in the peoples and in their basic political conceptions and conditions.[4] Attempts at imitation always cause certain modifications in the adopted institutions, due to the different conditions in which they operate. In this way imitation is a force in state evolution, not only in extending certain institutions and methods over wider areas, but also in forming new combinations and in securing variations, some of which may develop into valuable political devices.

84. Unity of political evolution. While the preceding outline has suggested some of the influences and processes of nature and of man that affect political evolution, and for purposes of analysis has considered them singly, as if they were distinct forces, it should be remembered that social development is a single process, no influence being separable, in its actual nature, from the larger whole of which it forms a part. "The organic view of history denies that any factor or factors are more ultimate than others. Indeed it denies that the so-called factors — such as the mind, the various

[1] Cooley, Social Organization, pp. 335–341.
[2] Lowell, Essays on Government, chap. i.
[3] Bodley, France, Bk. III, chap. v.
[4] Bryce, South America, chap. xv.

institutions, the physical environment and so on — have any real existence apart from a total life in which all share in the same way that the members of the body share in the life of the animal organism. It looks upon mind and matter, soil, climate, flora, fauna, thought, language, and institutions as aspects of a single rounded whole, one total growth. We may concentrate attention upon some one of these things, but this concentration should never go so far as to overlook the subordination of each to the whole, or to conceive one as precedent to others. History is not like a tangled skein which you may straighten out by getting hold of the right end and following it with sufficient persistence. It has no straightness, no merely lineal continuity, in its nature. It is a living thing, to be known by sharing its life, very much as you know a person. In the organic world — that is to say, in real life — each function is a center from which causes radiate and to which they converge; all is alike cause and effect; there is no logical primacy, no independent variable, no place where the thread begins. As in the fable of the belly and the members, each is dependent upon all the others. You must see the whole or you do not truly see anything." [1]

[1] Cooley, Social Organization, p. 255.

CHAPTER III

THE NATURE OF THE STATE

85. Essential elements of the state. As already indicated, conceptions of the nature of the state have in many respects undergone radical transformations during the process of state evolution. However, the essential elements of the state, whatever form it may take, are permanent; and a brief consideration of these elements, previously itemized as (1) population, (2) territory, (3) government, (4) sovereignty, and (5) law,[1] will suggest many of the problems that have arisen in political development, will furnish a logical basis for their classification, and will indicate certain angles from which they may be viewed.

I. Population

86. Population the basis of the state. In last analysis, all discussion of the state treats, directly or indirectly, of its population. The individuals comprising the state are the state, and it is only by a legal fiction that the state has any existence as a unit apart from the individuals included within it. Human beings are the constituent elements of the state; its organization, or government, consists of combinations of individuals; and all its purposes are expressed and its acts put into execution by its population, acting either singly or in organized association. Certain questions concerning population are of especial importance in their relation to state existence and development.[2] The total number of inhabitants included within the state, resulting either from excess of births over deaths,[3] from immigration, or from the extension of the state's boundaries, determines, in the main, the military and industrial strength of the state,

[1] See above, p. 2.

[2] Patten, "Law of Population Restated," in Political Science Quarterly, March, 1895.

[3] Brownell, "Significance of a Decreasing Birth-Rate," in Annals of the American Academy of Political and Social Science, July, 1894.

and influences both the general form of government and the attitude which the state takes toward the individual. The distribution of this population within the state, whether urban or rural, whether densely or sparsely aggregated, affects the nature of occupations and the type of civilization in general. The unity or diversity of race and nationality in the state's population opens up important questions as to the stability of its organization and the solidarity of its political consciousness.[1] The separation of the population into classes, based on birth, wealth, or occupation, and the political ability of the people, whether law-abiding and skillful in organization or turbulent and unpolitical, whether warlike or peace-loving, — all these things affect the form and functions of the states concerned.[2] Great men, especially warriors and statesmen, have also powerfully influenced political development.[3]

87. The relations of state to individual. In addition to the importance of population as a factor affecting the nature and growth of the state, certain other questions involving the relation of the state, considered as a legal unit, to its population, considered as individuals, lie at the very foundation of political theory. The first of these is concerned with the nature of the state and the proper relation of its authority, or sovereignty, to the liberty, political and civil, of its individuals. This is the endless problem of adjusting government and freedom, the paradox of securing liberty by establishing an authority which sets limits to free action.[4] It involves also a determination of the share of the individual in governing authority, the number who shall possess such power and the method by which it shall be distributed and exercised.[5] The other question has to do with the proper scope of state activity.[6] It must decide whether state or individual is the more important unit to be first considered in case their interests clash; and whether the functions of the state should be limited to the least possible sphere

[1] Munroe Smith, "Law of Nationality," in Lalor's Cyclopedia of Political Science.
[2] Pearson, National Life and Character.
[3] Carlyle, Heroes and Hero-Worship.
[4] Burgess, Political Science and Constitutional Law, Vol. I, Bk. II, chap. i; Montague, Limits of Individual Liberty.
[5] Dealey, Development of the State, pp. 294–296; see below, Chapter VIII.
[6] Ritchie, Principles of State Interference.

of action or whether they should be indefinitely extended. The diverse views of individualists and socialists represent the two extremes from this point of view.[1]

88. Minimum population of a state. Political philosophers have also considered the question of the number of inhabitants necessary to form a state, and the number, if any, beyond which the state should not expand. Without attempting to establish the exact point at which a previous nonpolitical group is transformed into a political organization or state, the question regarding the number of individuals that a group must contain before it can be considered a state may arise. On this point Willoughby says: "To our mind no minimum short of one can logically be placed. . . . None of the essential elements of the state are such as cannot conceivably be predicated as well of a small as of a large body of individuals."[2] Montesquieu takes a different position, saying that the political power necessarily comprehends the union of several families;[3] and Austin also denies that a state may consist of a single family, saying "without an application of the terms which would somewhat smack of the ridiculous, we could hardly style the society a society *political* and independent, the imperative father and chief a *monarch* or *sovereign*, or the obedient mother and children *subjects*."[4]

89. Maximum population of a state. As to the limits beyond which the population of a state should not extend, theories have also differed. The Greek philosophers, whose ideal was the city state, naturally believed that no state should exceed in population the number that could successfully live in a single community. For example, Aristotle says: "Clearly then the best limit of the population of a state is the largest number which suffices for the purposes of life, and can be taken in at a single view."[5] Rousseau placed a limit to the size of the state for a different reason. Believing that direct democracy was the only way of securing that expression of general will by which the state should be ruled, and that democracy was weakened if the population of the state were

[1] Garner, Introduction to Political Science, chap. ix; see below, Chapter IX.
[2] Nature of the State, pp. 22–23.
[3] Spirit of the Laws, Bk. I, chap. iii.
[4] Province of Jurisprudence Determined, 2d ed., Lecture VI, p. 183.
[5] Politics, Bk. VII, chap. iv.

so large as to necessitate representation, he urged a limit as follows: "Let us suppose that the state is composed of ten thousand citizens . . . then the sovereign is to the subject as ten thousand is to one. If the people is composed of a hundred thousand men the condition of the subject is not changed, and each bears the whole weight of the laws, but as his suffrage is reduced to a hundred thousandth, he has ten times less influence in their formation. . . . From which it follows that the larger the state becomes the less liberty there is."[1] Present political theory sets no limits to the possible number of inhabitants that a state may include. Improvements in the transmission of intelligence and in the transportation of persons and commodities, together with more perfect devices in governmental organization, such as representation, local self-government, and federation, make possible a successful and stable state with unlimited population. In actual practice, numbers have varied from the few hundreds included within the village community or the feudal fragment to the hundreds of millions over whom the national empires of the present hold sway.

II. Territory

90. Elements included under territory. In its broadest sense, the territory of a state includes the whole complex of physical conditions that influence its historical development. "The most potent of these are its size and zonal location; its situation, whether continental or insular, inland or maritime, on the open ocean or an enclosed sea; its boundaries, whether drawn by sea, mountain, desert or the faint demarking line of a river; its forested mountains, grassy plains, and arable lowlands; its climate and drainage system; finally its equipment with plant and animal life, whether indigenous or imported, and its mineral resources. When a state has taken advantage of all its natural conditions, the land becomes a constituent part of the state, modifying the people which inhabit it, modified by them in turn, till the connection between the two becomes so strong by reciprocal interaction, that the people cannot be understood apart from their land."[2] In its more limited sense,

[1] Social Contract, Bk. III, chap. i.

[2] Semple, Influences of Geographic Environment, pp. 59–60.

the territory of a state is the definite portion of the earth's surface over which the state exercises jurisdiction. It is the area whose boundaries mark the limit of one state as against its adjacent neighboring states.

91. Territory essential to state existence. Whether territory, in this sense, is essential to the conception of the state is a disputed question. Willoughby argues that permanent possession of a fixed area is not necessary to the existence of a state, as follows: "There has been an inclination on the part of many publicists to refuse the designation of state to the earlier types of political life, especially to those undeveloped organizations wherein the people have not yet obtained for themselves a settled abode. Those taking this ground must be considered as governed by an empiric conception of the state. We cannot refuse the designation of state to a society of men, if politically organized, even though it be in the nomadic stage. Low order of development cannot deprive an institution of its generic name." [1]

92. Territorial basis of sovereignty and law. On the other hand, the modern idea of sovereignty and law rests on a territorial basis. In the Middle Ages land-owning gave governing power, and since feudal times the authority of the state has coincided with its geographic boundaries. Hence no state, in the present sense of the term, can exist without permanent territory and fixed frontiers. This point of view is expressed in the following: "From the invariable association of land with sovereignty, or in other words of exclusive control over the members of a specific society, to the necessary association of such control with the possession of land, is a step which could readily be made, and which became inevitable when no instances were present of civilized communities without fixed seats." [2]

93. Extent of state's territory. The rules of international law determine what constitutes the territory of a state and the nature of a state's boundaries. Lawrence outlines the extent of a state's territory as follows: "It consists, first, of the land and water within that portion of the earth's surface over which the state exercises

[1] Nature of the State, pp. 27–28.
[2] Hall, Treatise on International Law, p. 20.

rights of sovereignty. . . . Secondly, a state's territory includes the sea within a three-mile limit of its shores. . . . In the third place, a state is held to possess, in addition to the marine league, narrow bays and estuaries that indent its coast, and narrow straits both of whose shores are in its territory. . . . In the fourth place, a state possesses the islets fringing its coast." [1] Because of the recent accomplishments in aërial navigation, jurisdiction over land and water must now be extended to include the air also, although international rules covering this field have not yet been agreed upon.[2]

94. Limit to state's territory. Any attempt to set a theoretical limit upon the proper area of the state, or to discuss the necessary effect of territorial extent on the nature of the state, must take into consideration the rapid progress of man in controlling the natural environment, especially the improvements in transportation and communication. States of all sizes have existed in actual fact, and political philosophers have disagreed as to the desirability of large or small areas. Rousseau, desirous of safeguarding democracy, attempted to lay down certain general principles concerning the area of the state, as follows: "In general a small state is proportionately stronger than a large one. A thousand reasons demonstrate this maxim: First, the administration becomes more difficult at great distances. . . . It also becomes more onerous in proportion as degrees are multiplied. . . . All this expense drains the subjects continually. . . . The government has less vigor and celerity in enforcing the laws, in preventing vexations, in correcting abuses, and foreseeing seditious enterprises which might arise in remote places. . . . The same laws can not apply to different provinces, having different manners and climates and being unable to endure the same form of government. . . . Talents are hidden, wishes not recognized, and vices unpunished in a multitude of men. . . . Chiefs burdened with affairs see nothing for themselves; clerks govern the state . . . and so it is thus that a state too large for its constitution becomes worn out, and perishes under its own weight." [3]

[1] Principles of International Law, pp. 140–147.

[2] Wilson, "Aërial Navigation," in The American Political Science Review, Vol. V, No. 2; Hearn, Airships in Peace and War.

[3] Social Contract, Bk. II, chap. ix.

95. Large territory and liberty. On the contrary, Alexander Hamilton believed that liberty was possible only in a state of considerable extent. "The smaller the extent of territory, the more difficult will it be for the people to form a regular or systematic plan of opposition; and the more easy will it be to defeat their early efforts. Intelligence can be more speedily obtained of their preparations and movements; and the military forces in the possession of the usurpers can be more rapidly directed against the part where the opposition has begun. . . . The natural strength of the people in a large community, in proportion to the artificial strength of the government, is greater than in a small; and of course more competent to a struggle with the attempts of the government to establish a tyranny." [1] Madison also argued that liberty depends upon the existence of a wide variety of interests, making difficult the formation of powerful combinations within the state, and that this is best secured in a state of large territorial extent.[2]

96. Geographic unity. More recently, certain writers have laid emphasis on geographic unity, believing that nature sets certain limits to the size of states in various parts of the earth, and that the boundaries of states should coincide with natural frontiers, with mountains, deserts, wide rivers, or the sea. "National unity is the determining force in the development of the modern constitutional states. The prime policy, therefore, of each of these states should be to attain proper physical boundaries. . . . Where two or more independent states are situated in one and the same geographical unity, it is presumably a sound policy which seeks the union of these states in a more general political organization or the absorption by one — the most capable and powerful — of the others. . . . On the other hand, if a state organization extends over several geographic unities, then there is good ground, in sound public policy, to consider whether the political civilization of the world would not be advanced by its separation into several independent states, corresponding in political extent with the boundaries indicated by nature." [3]

[1] The Federalist, No. 28. See also Merriam, American Political Theories, pp. 103–106. [2] The Federalist, No. 51.
[3] Burgess, Political Science and Constitutional Law, Vol. I, pp. 40–42.

III. Government

97. Nature of government. As already indicated, government is the organization that expresses and administers the will of the state. It is the outward manifestation of state existence, the means by which states carry on intercourse with one another and by which they control the affairs of their own subjects.[1] Every person who shares legally in exercising the authority of the state is included in the government, which may therefore be defined as the sum total of all the individuals and groups of individuals who formulate and put into execution the legal will of the state. Some organs of government exercise large powers; others, small. Some act regularly and frequently; others, irregularly and infrequently. In some states the government includes a considerable portion of the citizen body; in others only a few share in authority. Governments show wide variations in their internal organization and in the functions that they perform. But, in every state, some machinery, legally established and operated, is engaged in exercising political authority; and this machinery, considered as a unit, is the government of that state.[2]

98. Evolution of government. The evolution of the state has taken place largely through changes in the structure and functions of government. In early times government was simple in its organization, confused with other nonpolitical groups arising from family, religious, or industrial interests; and its activities were indefinite in nature and irregular and uncertain in fulfillment. With political advancement, governmental organization became more complex, and its powers grew wider and at the same time more definite. As the interests to be regulated expanded, division of labor partitioned authority among numerous departments, and their activities became more intelligently self-directed. Meanwhile, the share of the people in political power was growing,[3] and the government, no longer looked upon with dread as a tyrannous and repressive monster, but rather as the embodiment of a general will, entered upon a constantly widening sphere of usefulness.

[1] Jellinek, Recht des modernen Staates, pp. 152–155.
[2] Dealey, Development of the State, chap. vi.
[3] Scherger, Evolution of Modern Liberty, Introduction and Part II.

99. Sources of governmental authority. Before any attempt is made to analyze government or separate it into its elements, the question naturally arises concerning the method of its creation, the source and sanction of its authority. Many organs of government are created by superior preëxisting organs, which delegate a part of their authority, limiting the scope of action and sometimes the method of procedure. These delegating organs, in turn, may have been established and their authority outlined by still higher and more powerful bodies; and thus the hierarchy of organs and officials, with the resultant division of labor and the responsibility to supervision and direction, is built up. Somewhere, however, there must be an authority that creates the fundamental organization of the state, that distributes in a general way the total authority that may be exercised by the government, and that provides a legal way for exercising or delegating the entire sovereignty. This authority is found in what is called the *constitution* of the state.[1]

100. The constitution. In the broad and proper sense of the term, the constitution of a state is the form of that state, the collection of rules and principles in accordance with which the state is organized, the scope of governmental powers outlined, the various departments and divisions of governing authority established, and the extent and manner of their procedure indicated. Every state, therefore, has a constitution, just as each individual has a character. This constitution comes into existence with the state itself, changing from time to time to accord with prevailing political conditions and ideals within the state.[2] At any given time this constitution will probably be found expressed in customs sanctioned by common consent and enforced by the authority of the state, in certain fundamental documents created often under unusual conditions and by an unusual form of procedure, and in the legislative statutes, administrative decrees, and judicial decisions of the ordinary government.[3] From these sources combined are drawn the rules which determine the fundamental relations of the state to its

[1] Garner, Introduction to Political Science, pp. 373–377.

[2] Ibid., pp. 402–406.

[3] Bryce, Studies in History and Jurisprudence, Essay III; Garner, op. cit., pp. 388–406; Lowell, Government of England, Introduction.

citizens, the field of their liberty and the scope of its authority, including the legal organization and mode of exercise of the latter. The constitution, considered as a whole, makes provision for the total exercise of the sovereign powers of the state. "Evidently, then, every state from the moment when it begins its existence has a constitution, which may be defined as that fundamental law or body of laws, written or unwritten, in which may be found (1) the form of the organization of the state, (2) the extent of power intrusted to the various agencies of the state, and (3) the manner in which these powers are to be exercised." [1] The redistribution of the primary powers of government rests in the hands of that governmental organ that may legally modify or *amend* this constitution.[2]

101. Elements of government. The next question has to do with the component elements of government. Here a distinction must first be made between those organs that act indirectly or irregularly and that are often not recognized as a part of the government, and those organs that act directly and constantly, recognized by all as forming a part of the political organization. In modern states the former class includes two main types of authorities:[3]

1. *The electorate.* As states develop, a point is reached when civic consciousness spreads throughout the mass of the population, who, accordingly, demand a share in governing authority. This has resulted, often after bitter resistance on the part of the rulers and violent uprisings on the part of the people, in the political device of voting, by which a voice in the selection of officials and in the formulation of law is conferred upon the electorate.[4] All advanced modern states confer rights of suffrage upon a certain class of their citizens. These persons, as a group whose composition and political functions are determined by law, form a part of the government when exercising the political rights that they possess.[5] By elections they share in selecting administrative officials and law-making representatives; by the initiative and referendum [6]

[1] Dealey, Development of the State, pp. 207–208.

[2] Borgeaud, Adoption and Amendment of Constitutions, Conclusion.

[3] Sidgwick, Elements of Politics, chaps. xxvii–xxix.

[4] Sloane, "History and Democracy," in American Historical Review, Vol. I.

[5] Dealey, op. cit., pp. 215–220.

[6] "The Initiative and Referendum," Bulletin No. 11, Wisconsin Reference Department.

they take part in the creation or rejection of law; and by jury service[1] they share in the application and enforcement of law. States differ widely in the extent of their electorates, in the powers exercised directly by their electorates, and in the influence exerted by their electorates over the other organs of government. In all but the most despotic states, however, a fair proportion of the population is permitted to exercise some political authority, and in this way forms a part of the government.[2]

2. *Political parties.* With the growth of democracy and the winning of political rights by the electorate, some form of organization became necessary in order that the people might continue to formulate and execute their will; and the groups, through whose efforts democracy was secured, were perpetuated in political parties, or as they were formerly called "factions," by means of which democracy is workable.[3] Political parties arose as voluntary associations of individuals, held together by common purposes or by common grievances; and for a long time they existed outside the legal organization of the state. Even to-day in many states they are little recognized or controlled by law and exert their political power indirectly.[4] In so far as they are legally recognized and incorporated into the governmental organization, or in so far as their authority is tacitly accepted and enforced by the state, they form a part of the government. In other respects, while unquestionably powerful, their authority must be classed along with public opinion or with the influence of other voluntary associations. The governing authority possessed by political parties differs, depending in each state largely on the degree of democracy, the number of parties, and the work that they must perform.[5]

102. The government proper. In distinction to the electorate and political parties, which form, as it were, the background of modern governmental organization, and which are lacking in primi-

[1] Strictly speaking, juries are a separate and especially chosen organ of government, not coincident with the electorate, although often chosen by lot from the electorate.

[2] Garner, Introduction to Political Science, chap. xv; Esmein, Droit constitutionnel, pp. 209–248. [3] Gettell, Introduction to Political Science, chap. xxi.

[4] Goodnow, Politics and Administration, chap. ix.

[5] Ostrogorski, Democracy and the Organization of Political Parties; Lowell, Governments and Parties in Continental Europe.

tive or undeveloped states, there is the government proper, — that organization composed of individuals, variously selected, who are specifically intrusted with the ordinary creation and administration of law. For convenient analysis, government is usually considered under the following heads:

1. *Separation of powers.*[1] Organs of government are differentiated according to the nature of the functions that they perform. Broadly speaking, they are concerned with either the formulation or the administration of law; they either create the state's will or enforce it.[2] The ordinary classification, however, divides them into three departments: legislative, executive, and judicial, each department performing duties fairly distinct, and each sharing to a certain degree in the authority of the others.[3] Administration, distinct from the executive, has indeed practically become a fourth department. While in primitive times these functions were often combined in the hands of a single man or of a small group, the complexity of the modern state demands a considerable division of labor within each of these departments, leading to extensive subdivision and interrelation.

2. *Division of powers.* Organs of government are further differentiated according to the areas over which they have jurisdiction. Here the distinction is between national and the various degrees of local organization.[4] All states of the present day are so large that they require division and subdivision into convenient districts of administration; and the governmental organizations of these various areas differ in their legal position and in the nature of the questions with which they deal. Cutting across the separation of government into departments, therefore, is a division of government according to area of jurisdiction, certain governing powers being intrusted to the organization of a wider jurisdiction, others to that of a narrower, within each jurisdiction the various departments usually reappearing. The principle of local self-government, which is extensively applied in modern states, makes many of these subordinate units of great importance. Modern cities, for example, present political

[1] Bondy, "Separation of Governmental Powers," in Columbia University Studies, Vol. V, No. 2; Garner, Introduction to Political Science, chap. xiii.

[2] Goodnow, Politics and Administration, chaps. i–iv.

[3] Sidgwick, Elements of Politics, chaps. xx–xxiv.

[4] Goodnow, op. cit., chap. iii; Sidgwick, op. cit., chap. xxv.

problems of the first magnitude,[1] and colonial possessions are sometimes more advanced in government than the states to which they belong.[2]

103. Summary. The government of a state, then, is determined fundamentally by its constitution, which outlines the total field of governmental authority and distributes this field in a general way. The organs thus established, acting within the scope of their legal competence, subdivide the field and parcel out political authority to the large number of organs that are needed to express and administer properly the state's will. The individual citizens who form the electorate; the political parties that have a legal status in nominations, elections, or expressions of policy; the various organs, — national, local, and colonial; legislative, executive, and judicial, — including special commissions or conventions legally created and empowered, and the organ, if any, that may legally amend the constitution and thus redistribute governing powers, — all these combined form the government of the modern state. Other organizations, especially religious, industrial, and educational, exert political influence, and at times have been included as parts of the government; but unless their influence is legally enforced it is not considered the will of the state, and such organizations at present seldom form part of the political organization, or government. The exact line between government and semipublic organizations is difficult to draw.

IV. Sovereignty

104. Nature of sovereignty. A population inhabiting a definite territory and organized by means of a government forms a state if it possesses sovereignty;[3] that is, if there exists within the state a supreme and unlimited will that is enforced over all persons and associations belonging to the group,[4] and if the group is legally

[1] Rowe, Problems of City Government.

[2] Reinsch, Colonial Government; Colonial Administration.

[3] Burgess, Political Science and Constitutional Law, Vol. I, Bk. II, chap. i. Some writers, especially in Germany, deny that sovereignty is an essential element of the state. See Laband, Das Staatsrecht des deutschen Reiches, Vol. I, pp. 61 ff.; Jellinek, Die Lehre von den Staatenverbindungen, pp. 36 ff.

[4] Austin, Jurisprudence, Lecture VI.

free from interference at the hands of other groups.[1] Internal supremacy and external independence are the two aspects of sovereignty, the essential principle that distinguishes the state from all other associations and organizations.[2]

105. Limitations on the theory of sovereignty. In a theoretical, or purely legal, sense all states are internally supreme and externally independent and equal. In actual operation, the supremacy of internal sovereignty is, of course, limited by the complex interests and motives, many of which are extralegal, that influence the creation and application of law, and that determine political policy and methods.[3] In international relations the theory of legal equality is nullified by actual differences in size, strength, and wealth; and the theory of independence is modified by the rules of international law, by treaty agreements, by anomalous political situations, such as neutralized states, protectorates, and spheres of influence, and by practical political dogmas, such as the concert of powers and the Monroe Doctrine.

106. Sovereignty a legal concept. While sovereignty in its origin often results from force, and in last resort depends upon force for its maintenance, since it must be able to compel as well as to command obedience, it is nevertheless essentially a legal concept.[4] Internal sovereignty lies at the basis of the municipal law of the state; external sovereignty is a prerequisite for international law. Law, in the proper sense of the term, consists of those rules that are enforced by the state. They are the expression of the state's sovereign will, enforced by the state's sovereign power. Somewhere within the state, then, there must be a legal lawmaking authority,

[1] Oppenheim, International Law, Vol. I, Part I, chap. i. Writers on international law usually deny the absoluteness of external sovereignty, placing various limitations upon the independence of states. The present tendencies in interstate relations may necessitate modifications in the theory of external sovereignty, or even an admission that the internal and external phases of sovereignty are in reality different concepts. A certain degree of autonomy and independence, that is, a relative freedom from a higher or an external control, and a government which is habitually obeyed are unquestionably essential. See Hershey, Essentials of Public International Law, pp. 99–114, and authorities there cited; Crane, The State in Constitutional and International Law.

[2] Garner, Introduction to Political Science, chap. viii.

[3] Lowell, Essays on Government, chap. v.

[4] Willoughby, Nature of the State, chaps. vii–ix.

and in the sum total of organs legally exercising this function the sovereignty of the state is vested.

107. Distribution of sovereign powers. The original sovereign power of the state is distributed among its governing organs by the original creative process by which the state was formed.[1] This distribution is outlined in the constitution, either written or unwritten, which comes into existence with the state, and a legal method of readjusting the powers of the various governing organs is usually provided in the form of either a definitely written or a commonly accepted method of change.[2] In this way, either by definite legal process or by gradual customary evolution, sovereignty may be relocated, as conditions change, without danger to the state. If, however, the actual sovereignty of the state is not properly organized in its governing machinery, and if the will of the state cannot easily secure legal expression, a revolution is likely to occur. This involves an illegal and often a violent relocation of sovereignty. But if the previously existing, or *de jure*, sovereignty is overthrown by the actual, or *de facto*, sovereignty, the latter in turn becomes the legal sovereignty of the state, entitled to obedience when generally acknowledged and able to enforce its will.[3]

108. Conclusion. There is, therefore, in every state an organization that represents the state, that legally expresses and administers the supreme will of the state, in the form of law, over all persons and groups of persons included within the state; and that adjusts the relations of the state with other states. The principle of unity by which the state is supreme over all its component parts and by which it is independent of all other states, the ability to express and to enforce its will in the form of law, — these represent the sovereignty of the state.

109. Historical development of the conception of sovereignty. The existing legal conception of sovereignty is comparatively recent;[4] but wherever the state has existed there has been within

[1] Willoughby, op. cit., chap. vi.

[2] Burgess, Political Science and Constitutional Law, Vol. I, pp. 263–264.

[3] Bryce, Studies in History and Jurisprudence, chap. x; Sidgwick, Elements of Politics, chap. xxxi.

[4] Merriam, "History of the Theory of Sovereignty since Rousseau," in Columbia University Studies, Vol. XII, No. 4.

it an authority of some nature, enforced more or less perfectly, by some sort of sanction, over all its individuals. There has also been a feeling on the part of the individuals composing the state that they formed a distinct community, having common interests and being somehow or other different from other groups. Hence the crude beginnings of sovereignty, in both its internal and external phases, were found even in the most primitive political organizations; and the development of the state has been characterized by increasing definiteness in the conception and organization of the state's internal authority and external independence.

110. Sovereignty in the ancient world. In ancient times the members of the state were held together by ties of kinship and religion, and rulers were obeyed because of customary reverence for the patriarch and the priest. Later, bonds of personal allegiance bound mankind into groups, and sovereigns ruled as lords of their people. Similarly, in external dealings, differences in race or religion, in personal dependence, or in economic interests separated group from group. At times the conception of sovereignty slowly evolving was checked by conditions that threatened both internal supremacy and external independence. The confused claims of church and state during a large part of human history,[1] the belief that law was of divine origin or was to be found in nature,[2] and the complicated jurisdictions under feudalism,[3] made difficult any unlimited and indivisible sovereignty of the state over all its citizens. So the ideal of world empire and the claims of papal supremacy prevented the existence of independent and equal states.[4]

111. Conditions creating modern theory of sovereignty. Toward the end of the sixteenth century, when the rise of national states had destroyed the governing institutions of the Middle Ages and demanded a new explanation of political authority, conditions were such as to make possible for the first time the modern theory of sovereignty. The old unity based on kinship had disappeared. Bonds of personal dependence were weakened by the decline of the

[1] Dunning, Political Theories: Ancient and Medieval, chaps. v–x.
[2] Willoughby, Nature of the State, chap. v.
[3] Adams, Civilization during the Middle Ages, chap. ix.
[4] Bryce, Holy Roman Empire, chap. vii.

feudal nobility and the rise of monarchs ruling over more numerous subjects. Feudalism, by combining governing power with landholding, developed the idea of territorial jurisdiction, and the authority of the growing national states was considered to be territorial in nature. Meanwhile, the actual existence of a number of states relatively equal in strength, and under the rule of hereditary monarchs, made impossible the former ideals of world empire and of papal supremacy.[1] Under these conditions arose the conception of the state as a supreme political power internally and of states as independent and equal externally.[2] The work of Bodin[3] recognized the indivisible and absolute power of the state over its inhabitants, while that of Grotius[4] emphasized the equality and independence of the state in its relation with other states; both agreeing that jurisdiction was coincident with territorial boundaries. Although Bodin thought of sovereignty as resting in an absolute monarch, and Grotius based the rules of interstate relations on natural law, the changes in political theory that have swept away these conceptions have not seriously threatened the fundamental principles of sovereignty as then laid down; and the writings of more recent scholars, especially of John Austin,[5] have made the concept of sovereignty the foundation for the validity of all law and for all international agreements.

V. Law

112. Nature of law. Law is the will of the state enforced by its sovereign authority over all individuals and associations of individuals within the state.[6] The sanction of the state legally applied to certain rules and principles is the essential element of law.[7] In ancient times custom furnished most of the rules that were generally observed, and a supernatural sanction was believed to exist in the enforcing authority.[8] Ancient codes dealt as much with

[1] Adams, op. cit., chaps. xii–xviii; Dunning, op. cit., chaps. ix–xi.
[2] Dunning, Political Theories: From Luther to Montesquieu, chaps. iii–v.
[3] De la République (1576).
[4] De Jure Belli ac Pacis (1625).
[5] Lectures on Jurisprudence (1832).
[6] Holland, Elements of Jurisprudence, chaps. ii–iv.
[7] Willoughby, Nature of the State, chap. viii.
[8] Maine, Ancient Law; Early History of Institutions.

religion as with civil rights; contracts were valid only when accompanied by sacramental formulæ. Such law, undistinguished from religion and partaking of its exclusiveness, was intended to govern the actions of citizens only. Strangers and slaves did not share in the rights that it established. However, as the early tribes and cities extended their relations with other groups, it became necessary to provide some security for noncitizens. In Rome the *praetor peregrinus* judged cases involving strangers; in Athens a similar function was performed by the *polemarch* who had charge of foreign relations. The demand for written law and the formation of definite codes often resulted from agitation on the part of those who had no legal share in the religion of the state but wished to enjoy the advantages of settled rules.

113. The law of nature. As population grew and interests became more complex, frequent grievances arose because of the formality, exclusiveness, and artificiality of ancient law. Since it often seemed to violate elementary notions of justice, there was gradually developed, especially among the Greeks and Romans, the idea of a law less artificial and more just, that is, the law of nature or natural law. This law existing in nature was considered ideal law, to be discovered and applied by man,[1] and during the centuries that followed, endless discussions arose as to what law did and what law did not belong to the law of nature. Until the last century the doctrine of natural law, and of natural rights based upon such law, survived; although occasional writers even in the Middle Ages discussed political principles from a more rational standpoint. Machiavelli laid down rules to govern the policies of princes regardless of natural law; Thomas Aquinas made the law of nature identical with the law of reason; Suarez boldly proclaimed the divine right of the people. Nevertheless, as late as the period of the French and the American revolutions men appealed to natural law, the doctrines of Rousseau, Madison, and Jefferson being based upon a belief in its existence.

114. The modern conception of law. The idea that law is the will of the state, formulated and enforced by the authority resulting from political organization, and sanctioned in last analysis by human

[1] Scherger, Evolution of Modern Liberty, Part I; Dunning, Political Theories: From Luther to Montesquieu, Index, "Natural Law."

force alone is, except for a somewhat imperfect realization during the Roman Empire, a recent conception. To-day, while a part of law exists in the form of customs or of general principles of justice applied by the judiciary, the great body of law consists of definite statutes formulated by authorized lawmaking bodies, — by legislatures, administrative officials, conventions, or popular referendums. Enforcement by the state has been, however, the distinguishing characteristic of law during this entire process,[1] and where the law has not been directly formulated by the state, the legal principle that "what the sovereign permits, he commands" may be applied.[2]

115. Influences affecting the evolution of law: usage. A number of influences have contributed to the historical development of law.[3] The earliest means of social regulation were generally accepted rules of conduct resulting from accidental habits, from evident utility, or from general desire for order and justice. No direct action of the state was involved in the creation of such principles, their sanction depending upon immemorial usage or common belief in their divine origin.[4] As long as social relations were simple and common interests few, the value of these customary rules was recognized by all, and the disorder or personal violence that resulted from their occasional nonobservance was not a serious menace to the crude political societies then existing. But under changing conditions, such as often resulted from migration to a new environment, transition to other occupations, or contact with other peoples, difficulties arose. More numerous controversies led to doubts as to the relative validity of conflicting customs; in some cases the application of ancient rules worked undeniable hardships; new cases frequently arose concerning which custom furnished no rule. These conditions led to a new source of law resulting from judicial interpretations and decisions.[5]

[1] Lee, Historical Jurisprudence; Pound, "Political and Economic Interpretations of Jurisprudence," in Proceedings of the American Political Science Association, Vol. IX, pp. 94–105.

[2] Austin, Province of Jurisprudence Determined, Lecture VI.

[3] Willoughby, Nature of the State, pp. 144–159.

[4] Holland, Elements of Jurisprudence, pp. 61–62.

[5] Thayer, "Judicial Legislation: its Legitimate Function in the Development of the Common Law," in Harvard Law Review, Vol. V.

116. Judicial decisions. The state arose not as the creator of law, but as the interpreter and enforcer of custom. Disputed points were referred naturally to men of recognized importance, the aged patriarch or the war leader, who had authority to enforce their decisions. While in theory each case was decided on its merits by applying long-standing custom, in several ways the decisions of magistrates created new law. In deciding similar cases general rules were established, precedent was followed, and either unconsciously or deliberately the law was modified and expanded. When former customs worked injustice, decisions often remedied the evils and created new principles by means of legal fictions.[1] Finally, when no rule existed, general principles of equity were applied, still under the pretense of judicially interpreting laws already in existence. Many decisions of the Roman *praetor* and of the English chancellor are examples of law thus created. In these ways, as social life developed, the strictness and rigidity of old customs were modified, the functions of the state were extended, and its authority was made more definite in expression and more certain in enforcement.

117. Writings of jurists. Scientific commentaries upon law have also created legal principles.[2] By collecting and arranging in logical form past customs, decisions, and enactments, writers on law have been able to deduce general and philosophical principles, which are often accepted and enforced by the courts and thus become law,[3] or which may at least indicate the gaps that remain to be filled in order to have a complete and logical legal system, and which may suggest the proper basis for further enactment.

118. Legislation. The time came, however, when these methods of legal growth no longer satisfied the demands of developing political life, and a more direct and immediate means of creating legal rights and obligations was required. Thus arose the comparatively recent function of legislation, when the state became the direct creator of law. At first magistrates and priests alone could create

[1] Such was the fiction in Roman law that considered the wife as the legal daughter of her husband, and in the English law that considered husband and wife as one legal person.

[2] Markby, Elements of Law, section 83.

[3] Dicey, Law of the Constitution, p. 496.

law. Representing the power of the gods or the majesty of the state, patriarch and king or, later, *praetor* and *archon* were lawgivers. In the Roman Empire the emperor was the source of all law; when national states arose their kings claimed the same prerogative, and in some states to-day, in legal phraseology at least, laws are issued by the crown. During this process assemblies of freemen, whose consent and support were needed on important questions, gradually established themselves as part of the government, and by various methods secured the right to initiate, as well as indorse, new laws. The assemblies in Greece and in Rome and the early Teutonic moots represented this stage. Finally, the system of representation, begun in England, furnished a device that enabled the growing idea of popular sovereignty to manifest itself effectively; and in modern states legislation is controlled by representative bodies.[1]

119. Extension of legislation. For a long time the lawmaking powers of government dealt almost entirely with public law, adjusting the relation of citizens and state, and leaving the regulation of the private interests of individuals to custom and the judiciary. Only gradually, even after representative assemblies arose, did they attempt more than a general control of public administration. However, as the basis of representation widened, and the people, in their growing political consciousness, realized their power, it was inevitable that, through their representatives, they should enter on a constantly extending field of legislation. Private as well as public interests were regulated, other lawmaking bodies with delegated powers were created, and the present enormous legislative activity was begun. The growth of popular representative government and the idea that the state manifests its sovereignty in detailed legislation are closely interrelated. At present legislation is almost the only source of law. Custom and equity are being replaced by definite enactment; judicial decisions are limited by codification; and scientific commentary does little except discuss cases. While the other sources are present, they tend increasingly to be swallowed up in legislation. Rigid custom which, when unaltered, caused ancient states to stagnate, has been replaced by a craze for lawmaking which sometimes threatens to go too far in the other

[1] Clarke, Science of Law and Lawmaking.

direction.[1] At the same time custom still serves as a check on radical action. Laws no longer needed become obsolete, usages grow up outside the legal system, and public opinion constantly influences both the formulation and the administration of law. Traditions of the past, as well as needs for the future, affect the creation of law.[2]

120. Distribution of lawmaking authority. Within every state a legal distribution of lawmaking authority among various organs is now found. In early times, when states were small and government was a simple process, concentration of lawmaking power in the hands of a few was possible, and in the same hands the administration of the law was often vested.[3] The expansion of modern states in area and population and the increasing complexity of political interests has necessitated a considerable division of governmental organization and function. The fundamental body of rules and principles, called the constitution, which underlies the organization of the state, provides in a general way for the formulation of the state's will, and further subdivision is secured by a delegation of authority to various minor organs. In this way legal provision is made for the total exercise of the lawmaking power of the state, for the total expression of its will. A body of rules or customs sanctioned by the state outlines the various organs that may share in this process and indicates the scope of jurisdiction and general mode of procedure for each. Provision is also made for deciding disputes in case of doubtful or conflicting jurisdiction, and for readjusting the spheres of authority among the various organs as changing conditions may require.

121. Conclusion. The sum total of the principles enforced by these organs forms the law of the state, all organs acting legally within their spheres of competence creating laws of equal validity.[4] On the other hand, the will of any organ not authorized, or the will of an authorized organ expressed in an illegal manner or in a field beyond the sphere of its legal authority is not a law, but a revolutionary act.[5]

[1] Report of the American Bar Association, 1906, Part I, pp. 383 ff.

[2] Parsons, Legal Doctrine and Social Progress.

[3] Dealey, Development of the State, chap. xii.

[4] Willoughby, Nature of the State, pp. 205–214; Laband, Das Staatsrecht des deutschen Reiches, Vol. I, p. 546. [5] Wilson, The State, chap. xiv.

122. Classification of law: public law. The law of the state may be most satisfactorily classified on the basis of the relations governed.[1] The law which regulates the relations of state and individual is called *public law*.[2] In public law the state is one of the parties to the right created by the law, at the same time being the power that creates and enforces the law. Public law deals with the organization and functions of the state, and with its relations to its citizens. Its main subdivisions are:[3] (1) constitutional law, which outlines in a general way the fundamental organization of the state and indicates the scope and manner of exercise of governmental powers, at the same time setting apart a sphere of individual liberty within which the government may not enter;[4] (2) administrative law, which defines in detail the exercise of the governing powers outlined in constitutional law, and indicates to the individual his remedies against governmental encroachments;[5] (3) criminal law, which indicates the acts which the state considers as infringements of its rights and for which it will impose penal consequences.[6]

123. Evolution of criminal law. The idea of criminal law is comparatively modern. At first offenses against the state were punished by special laws, and offenses against individuals, even if they threatened general welfare, were considered private acts, to be avenged by individuals or compensated for by money payments. The state, entering as the arbiter that enforced fair play, later came to consider certain acts as offenses both against other individuals and against itself; and gradually a body of rules appeared concerning acts, both against the state and against other individuals, indirectly affecting the general welfare. With this came the idea that it was the duty of the state to prevent and punish such offenses.[7]

124. Private law. The law which regulates the relations of individual and individual is called *private law*. In private law both parties concerned are private individuals, while the state occupies

[1] Goodnow, Comparative Administrative Law, Vol. I, p. 7.
[2] Holland, Elements of Jurisprudence, pp. 121–129.
[3] Ibid., pp. 358–379.
[4] Burgess, Political Science and Constitutional Law, Vol. I, pp. 263–264.
[5] Goodnow, op. cit., Vol. I, Bk. I, chap. ii.
[6] Clark, Elementary Law, chap. ix.
[7] Dealey, op. cit., pp. 80–87.

the position of arbiter, creating the law and enforcing it impartially, so that each citizen may secure his rights against other citizens. Private law deals with questions of property, contracts, torts, personal relations, etc.[1]

125. Municipal and international law. Public and private law combined form *municipal law*, or the law of the state, and are characterized by the presence of an enforcing authority. In contrast to this law which regulates the relations of man to man and of man to state, there are the rules that regulate the relations of state to state, called *international law*.[2] For this, except as its principles are incorporated into municipal law, no enforcing authority exists, and it is, in the strict sense of the term, not law.[3] In fact, the name "international law" is a contradiction in terms, since if it is *international* it cannot be *law*, but merely the rules voluntarily observed by sovereign states. On the other hand, if it were *law*, it could not be *international*, but would be the municipal law of a world state. By the very nature of internal sovereignty, municipal law is law, while the nature of external sovereignty prevents international law from being law.[4]

126. International law as law. At the same time, since the rules of international law are formed by legal methods and treated as legal in character, it is more convenient to deal with them as a branch of law than as a branch of morals. They are sanctioned by laws passed by separate states, which incorporate the principles of international law into their municipal law and enforce them on their citizens; by the moral sentiment that exists among nations, and that causes loss of prestige to states violating it; and, in last resort, by war, in case international differences cannot be otherwise adjusted.[5]

[1] Clark, Elementary Law, chaps. x–xix.

[2] Moore, International Law Digest, Vol. I, chap. i.

[3] Willoughby, "Legal Nature of International Law," in The American Journal of International Law, Vol. II, No. 2.

[4] On the distinction between internal and external sovereignty, see Garner, Introduction to Political Science, pp. 264–265, and the authorities there cited.

[5] Hall, Treatise on International Law, pp. 13–16; Root, "Sanction of International Law," in Pamphlet published by the Association for International Conciliation, No. 8.

CHAPTER IV

THE ORIGIN OF THE STATE

I. General Nature of State Origin

127. Relation of state to other institutions. Among the problems of political development that have been troublesome during the entire period of state history are those resulting from the relations of the state to certain fundamental social institutions that arose with the state and that have been closely connected with it at every stage of its evolution. These institutions include primarily the religious organizations, the family groupings, the industrial associations, and the military systems. Since they came into existence with the state itself and were for a long time scarcely to be distinguished from those institutions that were more purely political, any discussion of their nature and of their relation to the state must be preceded by a brief account of the origin of the state and of the part played by them in its creation.

128. Former theories of state origin. In former times men were inclined to take the state for granted, to consider it as having been always in existence, to view it as established by the gods at the time the human race was created, or as arising spontaneously from the innate political character of man. The problems that engaged their attention involved rather examination into the source and the sanction of political authority. The proper relation of rulers to subjects, of government to freedom, has long been a fiercely contested question; and in the process of establishing political authority, both sides built up an extensive fabric of political speculation. On the one hand, theories were formed to establish the position of rulers and to compel obedience to their will;[1] on the other hand, theories arose to support attacks against the existing

[1] For example, the divine-right theories of the absolute monarchs during the seventeenth century.

authority, to serve as bases for revolution and reform.[1] The general evolution of the state has been characterized by a conflict between sovereigns and subjects, and this contest was responsible for a large part of political theory.

129. Relation of theories to their times. In this process the origin of the state was often considered, not so much for the purpose of explaining the actual historical method by which the state arose, but rather in a rational attempt to justify the nature of its authority.[2] The universal existence of some form of social organization which enforced rules and set limits to the freedom of individuals, led man, when he began to reason and investigate concerning his existence, to attempt an explanation of these phenomena, various theories of state origin resulting.[3] Each of these theories grew naturally out of the conditions and the intellectual point of view of its time; yet all of them were one-sided, partial explanations, even when they made no claim to historical accuracy. Only recently have scholars, imbued with the historical and scientific spirit, investigated the origin of the state, not for the purpose of justifying its existence or of supporting any preconceived principle, but of establishing the facts of its actual origin, regardless of resultant conclusions as to the nature of political authority, or the effects of their investigations upon the powers that be.[4]

130. Important former theories. Among the earlier theories which, in considering the nature of the state, discussed indirectly its origin, the most important were the divine theory, which conceived the state as established by God; the force theory, which explained political authority as the compulsory subjection of the weak to the strong; and the social-contract theory, which found the origin of the state in a voluntary agreement among its members.[5] Sometimes the same theory reappeared time after time, at

[1] For example, the natural-rights theories underlying the American and French revolutions.

[2] Bluntschli, Theory of the State, Bk. IV, chap. i. On the distinction between the historical origin and the philosophic justification of state existence, see McKechnie, The State and the Individual, chap. ii.

[3] Dunning, Political Theories: Ancient and Medieval, Introduction, pp. xv–xvi.

[4] Beard, Politics, pp. 7–15.

[5] For brief discussions of the above theories, see Willoughby, Nature of the State, chaps. iii–iv; Gettell, Introduction to Political Science, chap. vii; Garner, Introduction to Political Science, chap. iv, and authorities there cited.

widely separated intervals, when conditions were such as to render it useful. Thus the divine theory did excellent service, in slightly changed forms, in supporting absolute monarchy in all ages and in all parts of the earth.[1] Sometimes the same theory was modified by conditions until it was finally used as a weapon against the institution that it was created to support. Thus the social-contract theory, at first the upholder of royal power,[2] became at length the precursor of democracy.[3]

131. Elements of truth in former theories. Properly understood, each of the earlier theories of state origin contains a certain amount of truth. "The divine element appears in the fact that the Creator has implanted in the human breast the impulse which leads to association, and in the part played by religion in bringing primitive man out of barbarism and accustoming him to law and authority. The element of compulsion exercised by those who possess natural superiority is a powerful ally of both religion and evolution in bringing the natural man into political and social relationship with his fellows. Finally, the elements of contract and consent which lie at the basis of all association play an important part in the process of establishing and reorganizing particular governments."[4]

132. Present theory of state origin. In contrast to those theories of state origin which arose as subjective deductions when man's thinking was uncritical and unhistorical, or which were deliberately formulated to support the authority of certain privileged classes, or which overemphasized certain factors to the neglect of others, the modern theory of state origin tries to ascertain the actual facts of human progress, to estimate and combine the various factors involved, to view the entire process in the light of the modern principles of evolution, and to realize that the rise of political institutions is not a separate process, but a phase of the general development of man and of society. It realizes that the state, like other social institutions, has arisen from many sources

[1] For example, in the Oriental empires, the Hebrew theocracy, the Roman Empire, the Holy Roman Empire, the seventeenth-century monarchies, and in modern Turkey, Russia, and Japan.

[2] Hobbes, Leviathan. See Graham, English Political Philosophy, pp. 1–47.

[3] Rousseau, Social Contract. See Scherger, Evolution of Modern Liberty, Part II.

[4] Garner, op, cit., p. 122.

and under varying conditions, and that it came into being gradually and almost imperceptibly; that it is not an artificial creation, but the result of natural historical evolution. As Burgess says, the state "is the gradual and continuous development of human society, out of a grossly imperfect beginning, through crude but improving forms of manifestation, towards a perfect and universal organization of mankind." [1]

133. General process of state origin. The earliest permanent human groups were probably formed on the basis of kinship, and were further strengthened by ties of common religion.[2] With the association of man with his kind, social interests necessarily arose. When individual interests and common welfare conflicted, rules were established and an authority of some sort restrained non-social individuals and secured internal order. Hostile influences from without as well as disintegrating forces from within demanded social organization; and the autonomy of the political unit was secured by armed force, which in turn strengthened its internal solidarity. As common interests and communal property increased, men became conscious of their political unity, and the sentiment of patriotism replaced the weakening bonds of kinship and religion. When permanent homes were acquired, the territorial element was added and the state became a people politically organized on a definite territory. Geographic unity thus became an additional source of strength. As social relations multiplied, the duties of the state widened. Its structure became more elaborate and complex, and at the same time more definite. The functions of the state, its relations to its individual members and to other states, were more strictly defined by custom and law, and the exercise of its power became more intelligently controlled and self-directed. By some such process the state was formed.[3]

134. Geographic environment and state origin. Obviously, certain features of the geographic environment have influenced the origin of the state.[4] Nature places certain limitations on the type of human life that can exist in any given place; and in primitive times,

[1] Political Science and Constitutional Law, Vol. I, p. 59.
[2] Seeley, Introduction to Political Science, Lecture III.
[3] Willoughby, Nature of the State, pp. 18–30.
[4] Semple, Influences of Geographic Environment, Index, "State, land basis of."

when man was almost completely at the mercy of his environment, those limits were particularly effective. The state emerged in areas where population became fairly dense, where the relations of men to their environment and to their fellows demanded coöperation and regulation; and those conditions were brought about primarily by geographic and climatic causes. Man was probably born in the tropics.[1] There a fertile soil and a warm, moist, uniform climate abundantly supplied his primitive needs. Progress came in the cooler, drier margin of the temperate zone, where nature subjects man to certain compulsion, where his relaxed energies are toned up by the bracing air of a winter season, and where human effort leads to mutual aid and social organization.[2] The earliest civilizations and the first states arose where the tropics shade off into the north temperate zone, — in protected areas in India and China, in the valleys of the Euphrates and Nile, and in the Mediterranean basin. Similarly, lines of political movement followed certain natural channels; and the type of state was influenced by the size of the geographic unit, by its isolation or ease of access, by its soil and climate, its mountains and rivers, its animal, vegetable, and mineral resources, its inland, seacoast, or insular position. Moreover, by the influence of climate, food supply, occupation, natural selection, and heredity, working through long periods of time, nature differentiated mankind into races and peoples, with their diverse bodily and mental traits.[3] The numbers, virility, and physical stamina of populations, the keenness and flexibility of their mental processes, profoundly affected their social institutions.[4]

135. Factors influencing state origin. In addition to the constant influence exerted by the world of nature, within which the whole process of human evolution takes place, certain factors have been of prime importance in creating organized political life. Among these were (1) kinship, which created groups on the basis of some form of family affiliation; (2) religion, which served as a bond of union and a sanction for authority; (3) warfare, which

[1] The skeleton of probably the most primitive type of man yet discovered, known as *pithecanthropus erectus*, was found in the lowlands of Java. See Dubois, Pithecanthropus Erectus.

[2] Buckle, History of Civilization in England, Vol. I, pp. 31–33.

[3] Brinton, Races and Peoples, chap. iii. [4] Ward, Applied Sociology, Part II.

added force as a sanction for authority, strengthened organization for offense and defense, increased the authority of rulers, and demanded some adjustment of the rights and obligations of conquerors and conquered; and (4) industry, which required coöperation, with resultant organization, authority, and regulation, and which created property, with resultant rules for its protection and transmission. While all these factors — kinship, religion, warfare, and industry — were usually present in the origin of each state, they were found in different combinations, sometimes one, sometimes another predominating. Besides, they were not distinct factors, but were closely interrelated, each affecting all the others. The historic origin of the state, then, must be sought among peoples living under certain physical conditions, influenced by certain ties of kinship and religion, and engaged in certain warlike or peaceful enterprises, — the whole process creating organization, authority, and law; in other words, the state.

II. Kinship and State Origin

136. Importance of kinship in state origin. The most important bond of social union among primitive peoples was that of kinship; and the way in which the tie of blood was conceived, recognized, and extended determined in the main the social order of the greater part of the uncivilized world. Concerning the original form of the family, the process of its development, and its relation to the beginnings of political life, considerable controversy has been waged, and the question is still by no means settled.[1] A few fundamental facts may, however, be pointed out, sufficient to indicate the important influence of the blood tie, regardless of its controverted details, upon the origin and early development of the state.

137. Kinship through mother. The system of kinship obviously depends upon two principles: descent, or the relation of parent and child; and marriage, or the relation of husband and wife.[2] The former of these is constant; the latter, variable. The original group, consisting of mother and child, is determined by nature

[1] McLennan, Patriarchal Theory; Maine, Early History of Institutions.
[2] Hobhouse, Social Evolution and Political Theory, pp. 129–134.

and runs alike through all forms of society, from the earliest to the most advanced. The position of the husband and father, however, may differ and has given rise to two main forms of family grouping. If the union of husband and wife is not permanent, the former remains a member of his own clan or group, while the children become members of the mother's clan or group.[1] In this system, which is widely spread among primitive peoples, descent is traced through mothers, the daughters obtaining husbands from without, and the sons remaining attached to their mother's group and finding wives in other families.[2] The system of society thus arising cuts across the natural family, the tie between children and father or father's kin being weaker than that between children and mother or mother's kin.

138. Kinship through father. If, however, husband and wife form a permanent union, a family group including father, mother, and children is formed, and in this system the father dominates, the mother becoming a member of his clan. Each new family forms a part of the larger household, descent is traced directly through fathers, and the natural family coincides with the patriarchal system thus formed. The patriarchal family, therefore, offers a more solid basis for social organization, and was the prevailing system among those peoples who have contributed most to political evolution.[3] The early history of Hebrews, Greeks, Romans, and our Teutonic ancestors shows traces of a tribal organization based upon the patriarchal family. The ancient Jewish nation consisted of a union of twelve tribes made up of the descendants of Jacob, the common ancestor. The *patria potestas* of the Roman father served as a model for the authority of the ruler. According to Sir Henry Maine, the most notable advocate of this theory of political origin, "the elementary group is the family connected by common subjection to the highest male descendant. The aggregation of families forms the *gens* or house. The aggregation of houses makes the tribe. The aggregation of tribes constitutes the commonwealth."[4] From this point of view the ancient

[1] Bachofen, Das Mutterrecht.

[2] Morgan, Ancient Society, Part III, chaps. i–iii.

[3] Sidgwick, Development of European Polity, chaps. ii–iii; Freeman, Comparative Politics, Lecture II.

[4] Ancient Law, p. 128.

city was a union of families, within which governing authority rested with the fathers.[1]

139. Kinship through marriage. Kinship, however, does not depend upon direct descent alone; the tie resulting from marriage must also be added.[2] Whether descent is traced through mothers or fathers, it is an almost universal rule that marriage may not take place within the kin. While rules of exogamy differ, the general result is to compel the union of different families and thus extend the bonds of union resulting from direct kinship. Besides, rules forbidding the intermarriage of kin are often accompanied by rules requiring marriage between definite groups; and this principle of endogamy tightens the social bond of union by making more definite the affiliated groups.[3]

140. Value of patriarchal system. Here again the superiority of the patriarchal system is evident. The marriage regulations of the matriarchal tribe divide the allegiance of its men among the tribe as a whole, the totem group to which they belong but into which they may not marry, and the totem group into which they must marry. Besides, the principle of endogamy, while it secures union among the related groups, also creates isolation by separating these groups from others. In the patriarchal tribe, the allegiance of its men to family, clan, and tribe coincide; and when the clans widen or combine to form states, the rules of endogamy usually break down, allowing wider circles of intermarriage and unifying the interests of all classes of citizens. For example, the *plebs* at Rome obtained the *jus conubii* in B.C. 445.[4] Later this right was extended to the Latins, and finally legal marriage was permissible throughout the whole Roman world.

141. Mingling of matriarchal and patriarchal elements. These two fundamental systems of relationship are not always found distinct and separate. On the contrary, there are many gradations and blendings of mother-right and father-right, and there is considerable evidence to show that the former was the earlier and that

[1] Fowler, City State of the Greeks and Romans, chap. ii.

[2] Westermarck, History of Human Marriage.

[3] Jenks, History of Politics, pp. 9–10.

[4] In the *lex Canuleia de conubio*. See Granrud, Roman Constitutional History, pp. 58–60.

the rise of the latter resulted from the development of industry and property among the more advanced peoples. From this standpoint the tribe was the oldest group; later it broke up into clans; these in turn subdivided into households and finally were dissolved into the individual members of society.[1] In the transition from matriarchal to patriarchal society, the motive to retain permanent possession of wives and children was furnished by the growing value of labor. Wives secured by capture or purchase became the property of their husbands, and their children became members of the father's group. Sometimes warlike peoples realized the advantage of rearing boys or of securing a food supply from the field labor of captured women and their children; but the chief impetus was given by the rise of industries controlled by men.[2] Such activities, of which the domestication of animals and the care of the pastoral herds were the usual beginnings, gave value to the labor of sons, awakened the masculine ambition for property which could be transmitted to sons, and created the patriarchal family in which wives, children, and slaves were conceived as possessions. The authority of the father was increased by the wanderings of the pastoral group, which separated the wife from the protection of her kinsmen; and by the rise of ancestor worship, which replaced the totemic beliefs of the metronymic family by a powerful, supernatural, unifying force controlled by the patriarchal heads.[3]

142. The family and the state. Groups based on kinship, found in all early societies, may be regarded as natural, resulting from the family instinct, which, in the relations of mother and children, and husband and wife, give rise to various ramifications of descent and intermarriage. While such systems are not, strictly speaking, political, the state proper often not developing through the expansion of any form of family, but arising rather from warlike activities, which often combine or destroy kinship groups, and which break down the family authority based on age and heredity,[4] nevertheless kinship, in creating systems of social organization, in

[1] Jenks, op. cit., chaps. i–ii; Willoughby, Political Theories of the Ancient World, chap. i.

[2] Mason, Woman's Share in Primitive Culture.

[3] Giddings, Principles of Sociology, pp. 285–293.

[4] Willoughby, Nature of the State, pp. 19–30.

building up authority and regulations, and in creating feelings of racial unity, often paved the way for political existence by creating both the internal solidarity that made possible the conception of the state, and the external framework that furnished the foundation for the actual organization of the state. Marriage, especially the monogamous form of the more advanced peoples, involves self-restraint; and self-restraint, essential to self-government, lies at the threshold of all political inquiry.[1]

143. The family sometimes antipolitical. It should be added, however, that historical proof of the universal prevalence of either the matriarchal or patriarchal families among primitive peoples is lacking. While particular state organizations have developed on the bases of each of these forms of family, other forces and elements were more important in the process of political organization. "The family and the state are totally different in essence, organization, functions, and purpose."[2] Certain forms of the family, especially the closely organized, exclusive, kinship groups of Greece and Rome, were at times even antipolitical. Each family, having its own religious ritual, had also its own code of law and usage. Supported by numerous retainers (*thetae, clientes*), powerful families constituted within the state a veritable *imperium in imperio*. Members of a *gens* were bound to render aid to each other even against the state; no member, for example, could bear witness against another. Rivalry among the leading families over the distribution of political office converted each elaborate group of kinsmen into a political machine. The Fabian family at Rome even offered to conduct and support a war against the Veii. Not until these centrifugal units were subordinated to a common political authority could the state proper exist. The earliest states arose where kinship ties were less definite and powerful. Tribes whose constituent members were held together by slight feelings of friendship and by a recognition of the offensive and defensive value of coöperation in war, and whose governing authority rested in a chieftain chosen mainly for his personal prowess, existed before definite family systems were established.

[1] Kelly, Government or Human Evolution: Justice, pp. 103–137.
[2] Garner, Introduction to Political Science, pp. 118–119.

144. The tribe and the state. The germ of political authority proper "is to be found in the tribe and in the control which it exercised over its members. Even if it be held that some sort of family life existed before the formation of tribal associations, the groups of individuals thus formed can hardly be said to have possessed any political characteristics. It was purely a social institution founded upon the physical facts of parentage. Its membership was thus absolutely limited to certain individuals, the bond of union was a temporary one, and the status of the members that of slaves to the family's head, and not that of citizens. In the case of the tribe, on the other hand, the authority that was exercised was purely political. Its chief derived his right of rule from the actual sanction of his subjects. No absolute limits were fixed to its membership, nor duration to its existence; no degrees of citizenship were recognized; so far as the sphere of its control extended, it was sovereign and self-sufficient. It was not one of a number of similar groups of coördinate power, all united into some larger associated form." [1]

III. Religion and State Origin

145. Religion in early states. The fundamental psychological principle upon which the state is based is that of reverence and obedience. The subjection of barbaric anarchy to law has always been the first problem in state development, and this was accomplished by the power of religion. Asia, the home of the earliest civilizations, also produced all the world's great religions; and while she has as yet contributed no great states, she at least laid the foundation for all political development by disciplining the human race through thousands of years in the preliminary principle of subordination to authority. The state emerged in the form of a theocracy or of a despotism based on theocracy, and the same type of organization has been needed each time a new people passed from barbarism to political civilization.

146. Primitive religious ideas. The earliest forms of religion were probably animistic in nature. Savages worship external objects, such as stones or animals, attributing to them supernatural

[1] Willoughby, Political Theories of the Ancient World, pp. 8–9.

powers and usually considering them malevolent deities dealing disease and death and thirsting for human blood. Elaborate ceremonies were therefore developed under the direction of sorcerers or "medicine men," who were supposed to have influence with the deities and to be able to appease their wrath.[1] A somewhat obscure connection also existed between religious beliefs and early social organization, the totem groups, into which primitive tribes were usually divided for the purpose of preventing the intermarriage of close relatives, being based upon some sacred object or animal, often looked upon as the father of the group.[2] These crude religious ideas were valuable in political evolution, not only in strengthening the foundation for social organization in the totem groups and systems of relationship, and in developing, in the sorcerers or priests, an authoritative ruling class, but also in establishing rudimentary ideas of law.[3] While these were mainly negative ideas, consisting of things which were forbidden or "taboo," and were often connected with the apprehension of danger, the social discipline resulting from the general observance of definite rules was an important step in human organization.

147. Ancestor worship. With the transition from matriarchal to patriarchal society, totemism as the dominant faith was replaced by the worship of ancestors. The patriarchal families, phratries, and tribes, from which some of the leading states of history were formed, were religious units, held together by the idea of descent from a common father, by the worship of the sacred fire of the hearth, and by sacrifices to a long line of divine ancestors, conducted by the heads of families.[4] "Ancestor worship is still the household cult of China and Japan. Many traces of it remain in the desert tribes of Arabia. All of the historical Semitic peoples were ancestor worshippers in their days of tribal organization.[5] The Aryans were ancestor worshippers when they first appeared on the shores of the Mediterranean; and among the Romans this religion of the household hearth disappeared only with the triumph of Christianity."[6]

[1] Spencer and Gillen, Native Tribes of Central Australia.
[2] Frazer, Totemism. [3] Morgan, Ancient Society, Part II.
[4] De Coulanges, Ancient City, Bks. I–II.
[5] Robertson Smith, Religion of the Semites.
[6] Giddings, Principles of Sociology, pp. 290–291.

148. Nature worship. Side by side with these beliefs arose a system of nature worship, partly the result of common superstition at a time when natural phenomena could not be explained in a rational way, and partly a definite cult with its own ceremonies and priesthood.[1] Natural forces were personified and grouped into a family of deities around whom abundant traditions and myths were formed.[2] Accordingly, the earliest cities and states were religious communities, and the acts of men, public and private, were associated with religious observances. Kings were also pontiffs, and magistrates were priests. Law was a sacred formula, enforced by divine sanction; and legal rights were possible only among those having the same religion. Citizenship was the prerogative of those only who were members of the enlarged family; the stranger or the slave had no place in a civic life based upon a worship from which he was excluded.[3] Church and state were practically one in purpose and in spirit; the rulers were deified as representatives of the gods and supported by a priestly class having large privileges and powerful authority. Hereditary chieftaincy, resulting from the idea of male descent and ancestor worship, was favorable to authority; and a perfect continuity of tradition and custom developed.[4] In this way the unity of the tribe, the authority of its chief, and the sanctity of its customs were established; and in the static civilizations thus formed were laid the necessary foundations of discipline and obedience, from which the more advanced political forms might later be evolved.

149. Religions of practical morals. With the growth of scientific knowledge and the rational explanation of natural phenomena, nature worship became merely a system of poetic myths or figures of speech. With the expansion of the state and the breaking down of the earlier kinship groups, ancestor worship, as a bond of political union, disappeared. Its last surviving traces were found in the Roman emperor-worship, in the medieval theory of the divine right of kings, and still exist in the religious support of monarchy in Turkey, Russia, and Japan. The religious systems that arose in

[1] Grote, History of Greece, Vol. I, pp. 1–87. [2] Hesiod, Theogony.
[3] De Coulanges, op. cit., pp. 258–268.
[4] Freeman, Federal Government, pp. 123–143.

their stead were more spiritual in nature and more closely connected with practical morality. The Hebrew conception of Jehovah, the systems of the Greek and Roman philosophers, and the teachings of great moralists, such as Confucius, Buddha, Christ, and Mohammed, each of whom became the founder of a great religion, represents the new spirit. Religions of this type, however, tightened the bonds of social control, and were closely related to political development and to the origin of new states. The rise of the Hebrew nation went hand in hand with the increasing clarity of its conception of Jehovah as its tribal god; the Mohammedan Empire was the direct outcome of the spirit of unity created by the Mohammedan religion;[1] and the rise of modern European states was largely aided by the close alliance between their kings and the Christian church.[2] Even the beginnings of the United States and the early forms of its government were powerfully influenced by religious motives;[3] and in all states law now follows closely the moral ideas emphasized by the prevailing religious beliefs.[4]

IV. Industry and State Origin

150. Phases of economic evolution: primitive life. Since economic life is many-sided, it is not easy to trace a regular and continuous process of growth or to single out the fundamental characteristics of its evolution.[5] However, those early stages through which mankind developed when political institutions were being formed may be outlined in broad generalizations as follows: Primitive man for a long time must have roamed about in small, independent groups, living on wild berries, nuts, roots, and herbs. When possible he varied his diet by fishing; in some cases he practiced cannibalism on his enemies or on the aged and useless members of his group; and when game was plentiful he supplemented his scanty diet by hunting. During this period he made

[1] Gibbon, Decline and Fall of the Roman Empire, chaps. l–lii.

[2] Adams, Civilization during the Middle Ages, chaps. vi–viii; Carlyle, History of Medieval Political Theory.

[3] Merriam, American Political Theories, chap. i.

[4] Wundt, Principles of Morality, Part III, chap. iv.

[5] Seligman, Principles of Economics, pp. 66–68.

some development in technique by utilizing and fashioning weapons and tools, by discovering the use of fire, and, finally, by working in metal. Even a slight cultivation of the soil, or "hoe-culture," largely the work of the women, was sometimes added. Forethought was largely lacking, and magic and ceremony accompanied all acts.[1]

151. Nomadic life. Such primitive groups were nomadic and but slightly organized. Because of their wide wanderings and the fact that land was not held for permanent occupancy and cultivation, the bond holding such peoples to the soil was very slight, although they sometimes regarded certain ill-defined areas as their tribal hunting grounds, and jealously resented any encroachments on the part of neighboring tribes.[2] Except for articles of personal use, which were considered as being parts of the users, property was unknown; and the difficulty of securing food and the scant returns of labor offered no inducement for the establishment of the institution of slavery. If captives were not killed and eaten, they were sometimes adopted into the tribe. War with surrounding tribes was the rule, and trade was limited to the exchange of gifts or to rude barter.[3] Such economic conditions permitted no concentration of population, no division of labor except between the sexes, and hence no evolution of classes. The group was necessarily small and the organization simple; and when its numbers increased or when the food supply failed, it easily broke up into divisions which might thereafter lead independent existences.[4]

152. Fishing tribes. Fishing tribes alone, whose habitat along rivers or lakes or on the seacoast was determined by nature, and whose life was more sedentary, developed into larger units and, especially when coöperation was needed for pelagic fishing, made some progress toward stable organization. Moreover, where conditions of climate and soil permitted, their settled mode of life facilitated the beginnings of agriculture, and their location naturally led to trade. Fishing tribes, therefore, received an early impulse forward in civilization.[5]

[1] Abbott, Primitive Industry, chap. xvi.
[2] Semple, Influences of Geographic Environment, pp. 53–55.
[3] Ely, Evolution of Industrial Society, pp. 26–38.
[4] Roosevelt, Winning of the West, Vol. I, pp. 70–73.
[5] Ratzel, History of Mankind, Vol. I, p. 131.

153. Pastoral life. The type of economic life that next arose was mainly determined by the conditions of nature and the relations of population to the land. Under certain circumstances, when game grew scarce, it was somehow discovered that by caring for various animals and their increase a permanent and more plentiful food supply might be secured. Hence, when geographic conditions were favorable, nomadic pastoral tribes arose. This transition meant the substitution of an artificial for a natural basis of subsistence and marked an important advance in culture.[1] "From the standpoint of economics, the forward stride consisted in the application of capital in the form of flocks and herds to the task of feeding the wandering horde; from the standpoint of alimentation, in the guarantee of a more reliable and generally more nutritious food supply, which enabled population to grow more steadily and rapidly; from the standpoint of geography, in the marked reduction in the per capita amount of land necessary to yield an adequate and stable food supply. Pastoral nomadism can support in a given district of average quality from ten to twenty times as many souls as can the chase."[2] Famines became less frequent and cannibalism disappeared. Even before slavery was profitable, private property in herds developed, with resultant differences in wealth and in social classes, and rules for the inheritance of property were first established.[3] The social bond was drawn closer, and more authority and organization were needed.

154. Beginnings of agriculture. A more permanent relation of population to land was also established. Each pastoral tribe was identified with a certain district within whose clearly defined boundaries its migrations were carried on; and encroachment upon its pastures or its all-important watering places were frequent causes of strife and demanded the united resistance of the tribe.[4] A crude form of agriculture was often found combined with the hunting and fishing stage; and a primitive tilling of the soil, as an auxiliary means of support, was carried on by the wives and daughters of

[1] Payne, History of the New World called America, Vol. I, pp. 303–313.
[2] Semple, Influences of Geographic Environment, p. 61.
[3] Lansdell, Russian Central Asia, Vol. I, chaps. xxii–xxiii.
[4] Semple, op. cit., pp. 57–58.

hunters during the pastoral period.[1] Such agriculture was extensive and nomadic, the fields being abandoned as soon as they became unproductive. Besides, it was not until the supply of game was practically exhausted that the roving life of the hunter or shepherd gave way to the settled life of the farmer and agriculture formed the chief reliance as a source of food supply. Only where conditions of soil and climate were favorable and where a native equipment of suitable plant forms were found could the transition from the superficial, intermittent use of the land pass into the systematic, continuous use of the farmer.

155. Agriculture and the social structure. This change to a settled agricultural life was accompanied by profound changes in the social structure.[2] A marked increase in the density of population, caused by the better food supply and the new method of industry, brought about new social relations and duties.[3] Slavery, which was not profitable among hunters and herdsmen, became an almost universal institution,[4] and the idea of property in land gradually arose.[5] While at first each village community was isolated and self-supporting, in time division of labor and the disposal of surplus production led to trade. This prepared the way for handicrafts, commerce, and town life; and after the introduction of machinery and artificial power, for the industrial and capitalistic organization of the present day.[6] With every increase of the population inhabiting a given area, and with the resultant tightening of the bonds between man and man and between man and the land, came the need for more highly organized government for the purpose both of reducing internal friction and of securing protection against outside attack. After the state was firmly established, its relation to economic life remained in its attempts to develop its internal resources and its means of communication and transportation, and in its external territorial expansion and its commercial and colonial activities.[7]

[1] Thomas, Source Book for Social Origins, pp. 96–112.
[2] Ely, Evolution of Industrial Society, pp. 46–52.
[3] Ratzel, Anthropo-geographie, Vol. II, pp. 264–265.
[4] Ingram, History of Slavery and Serfdom.
[5] Letourneau, Property, its Origin and Development.
[6] Seligman, Principles of Economics, pp. 74–83.
[7] Adams, Law of Civilization and Decay, chaps. xi–xii.

156. Industry and the state. The preceding brief outline of the beginnings of industrial life shows that they have influenced the origin of the state in two main ways. In the first place, the activities of mankind in securing a living have involved a growing degree of coöperation, division of labor, and organization. As the unit of social life, the horde was replaced by the clan and tribe, these in turn by the patriarchal family, and finally by the state; and these transitions were probably due more to changes in the economic life than to any other single cause. During the entire process there was evident a growing unity, an expansion and definiteness of function and of authority, that made the state a logical result. The rise of close and complex interrelations within the group necessitated regulation for the maintenance of internal peace and order, and the increasing political consciousness of each group in its relations with others created interstate relations and strengthened internal solidarity.[1]

157. Property and the state. In the second place, the existence of property and its increase in amount and in importance, the direct results of economic activities, have also been powerful factors in creating the state. Property in flocks and herds, in lands, in slaves, or in the products of industry and trade demanded a more and more powerful authority to determine disputes and furnish protection. A large part of early custom and of modern law deals with property rights; a considerable proportion of state activity in all stages of political life has been needed to determine the ownership, use, and transmission of property; most wars have been waged to safeguard or to acquire some form of material wealth.[2]

158. Property and social classes. Besides, the growth of property and its inevitable accumulation in the hands of the strong or the cunning created social classes and powerfully affected the beginnings of political institutions. The relations of master and slave and of rich and poor were directly connected with the origin of authority and obedience, and lay at the basis of the monarchic or aristocratic organizations of all early states. Accordingly, the development of economic interests has been largely responsible

[1] Dealey, Development of the State, chap. ii.
[2] Cunningham, Western Civilization: Modern Times, Bk. V.

for the types of organization through which the state emerged and, through the existence of property, has created a governing class and furnished a motive for political activity.

V. War and State Origin

159. Organization based on kinship. In tracing the origin of the state, a point has now been reached where a fundamental distinction may be noted. All forms of human organization and government are reducible to two main types.[1] The first, in order of time, is founded upon persons and upon personal relations. Its unit is the gens or clan. It is based upon kinship and religion. It arises gradually, and in the main peacefully, from coöperation, from division of labor, and from the need of adjusting the relations of individuals within the associated group. It integrates through the successive stages of gens, phratry, tribe, and confederation of tribes. The social organization that results from this process is the people or nation, using the latter term in its etymological sense as meaning a population of common descent. It exhibits combined action, but it is a combined action which primarily conserves the interests of individuals and only secondarily the welfare of society as a whole.[2] It creates a form of government, authority, and law, but it is not yet purely political.

160. Organization based on territory. The second, and later, form of organization, while retaining many traces of the earlier system, and arising from it by gradual stages, is founded upon territory and upon property. Its unit is the village community or township, a territorial area circumscribed by metes and bounds, together with the persons and property contained therein. It integrates through the successive combination of territorial areas until the national domain is reached. It often exhibits combined action primarily for the interests of the group and secondarily for the interests of the individual, and creates a form of government, authority, and law resting upon human sanction and upon force. This social organization is the state proper, and the chief influence in its establishment has been warfare.

[1] Morgan, Ancient Society, pp. 6–7.

[2] Spencer, Principles of Sociology, Vol. II, pp. 245–247.

161. War formerly an economic necessity. During a great part of human history war has been an economic necessity.[1] Among peoples subsisting on products furnished spontaneously by nature, war was the normal condition. The scarcity and uncertainty of food supply demanded much land and, as population increased, overlapping hunting grounds led to wars which restored the equilibrium between population and food supply. Such wars were the only means by which vigorous tribes could increase their sources of subsistence, and usually resulted in the extermination of the weaker social organizations. However, primitive economic conditions made it impossible for men to live in large or closely integrated groups, so the victorious tribe in time broke up into smaller tribes, and such warfare caused little progress in political development.

162. Pastoral life and war. Tribes whose locations were inaccessible or which were surrounded by other tribes too nearly equal in strength to permit of wars of conquest were compelled, as their population increased, to devise artificial sources of food supply. In open areas where animals suitable for domestication were available, pastoral life arose. An increased and stable food supply multiplied the population, and the need for protecting the herds and the pastures led to a consolidation of the social organization under the patriarchal system. The numbers, discipline, and mobility of pastoral nomads enabled them to undertake distant expeditions and to make large-scale conquests.[2] The nomad's whole mode of life bred courage; the routine of his daily occupation furnished training in military methods and organization. Accordingly, the military and political systems of shepherd races have given them their great historical mission of political consolidation, have superimposed the imperious pastoral nomad upon the peaceful tillers of the soil as the only stable government among savage and semicivilized races, and have caused the periodical *Völkerwanderungen* which have swept over the earth, destroying and founding empires.[3]

[1] Robinson, "War and Economics in History and Theory," in Political Science Quarterly, Vol. XV, pp. 581–622.

[2] Semple, Influences of Geographic Environment, pp. 490–497.

[3] Ratzel, History of Mankind, Vol. I, p. 28.

163. Agricultural life and war. Where animals suitable for domestication or open areas adapted to pasturage were not found, primitive peoples became agricultural. Likewise, pastoral tribes, when confined by geographic barriers or by invincible enemies, slowly became agricultural under the pressure of increasing population. War, however, sooner or later became again an economic necessity. Crude methods of cultivation could not maintain the equilibrium between food supply and population, and the need for defense against plundering raids led to a new system of social differentiation.

164. Military systems of agricultural states. Unlike the pastoral tribe, an agricultural population is not a mobile military organization, ever ready for defense or for far-reaching conquest. It is settled, bound to the soil; a considerable proportion must till the fields and are therefore not available for warfare. Several devices arose to meet this situation. Among the Suevi the men alternately tilled the land and went out to war.[1] Alfred the Great introduced a similar custom in England, dividing the "fyrd" into two parts, one of which performed military service, while the other remained at home to till the fields.[2] Henry I in Germany compelled one soldier in nine to build fortifications, while the others sowed and harvested for him.[3] More often a war of conquest enslaved the conquered and compelled them to labor in the fields for the victors. Another result, closely related and almost universal in the Oriental world, was the rise of a system of castes, with a permanent military class. The great empires that history exhibits as the earliest states were based upon such systems; they originated from conquest and their chief function was warfare. The time came ultimately when foreign lands had to be secured to feed their peoples, and the only possible relief was expansion, booty, and tribute.

165. Summary. War, then, was the natural condition among primitive men, the chief source of wealth and honor, and a powerful influence in the establishment of political institutions. From

[1] Cæsar, Commentaries, Bk. IV.
[2] Gardiner, Student's History of England, p. 60.
[3] Widukind, Res gestae Saxonicae, i, 35.

this standpoint, the chief causes in the development of social organization in the definite form which created the state may be summarized as (1) increase of population, demanding a larger food supply, (2) increase of wealth, demanding protection, (3) improvement in weapons, due to the working of metals, and (4) the rise of a special military class.[1] The process through which the state was established by means of conquest followed two main forms. Sometimes the war leader, after firmly establishing his authority as ruler of his own tribe, extended his power by a process of consolidation over neighboring tribes, until he became ruler of a large territory. In this way Anglo-Saxon England was united under the headship of the West Saxon chieftains,[2] and the Frankish kingdom was built up under Clovis and his successors.[3] Sometimes the state was founded by a band of warriors after successful migration and conquest. In this way the Visigothic kingdom in Spain[4] and the practically independent province of Normandy were established.[5] Ward summarizes the natural steps by which states are formed through conquest as follows:[6] (1) subjugation of one race by another; (2) origin of caste; (3) gradual mitigation of this condition, leaving a state of great individual, social, and political inequality; (4) substitution for purely military subjection of a form of law, and origin of the idea of legal right; (5) origin of the state, under which all classes have both rights and duties; (6) cementing of the mass of heterogeneous elements into a more or less homogeneous people; (7) rise and development of a sentiment of patriotism and formation of a nation.

166. Form of the military state. The type of state established by conquest was quite different from the earlier tribal organization based on kinship and religion.[7] In the first place, it was territorial, not personal, in character. Race feeling declined as fusion slowly took place between conquerors and conquered, usually of different blood, speech, and religion; or as the successful leader swelled the

[1] Jenks, History of Politics, pp. 73–75.
[2] Cheyney, Short History of England, pp. 56–57.
[3] Adams, Growth of the French Nation, pp. 25–28.
[4] Emerton, Introduction to the Middle Ages, pp. 33–34.
[5] Johnson, Normans in Europe, chap. iii.
[6] Pure Sociology, p. 205. See also Gumplowicz, Der Rassenkampf; Ratzenhofer, Die sociologische Erkenntnis
[7] Jenks, op. cit., pp. 76–82.

number of his host by importing new followers, or increased his fame and wealth by opening his country to foreign adventurers and merchants or to the teachings of new ideas and religions. Kings became lords of their land, not of their people, and military allegiance and patriotism replaced the former ties of real or pretended blood relationship and of common worship.

167. Religion in the military state. Besides, the exclusiveness of the old tribal religions, based largely on ancestor worship, was broken down. The establishment of political institutions proper was accompanied by the rise of religions whose chief characteristic was their universality. The worship of one or of a few great deities or of some real or mythical hero or prophet united the Oriental empires. The Greeks found a common worship in personifying natural phenomena, and the Romans typified and strengthened the political unity of their empire by deifying their emperor. The rise and unification of modern states was intimately connected with the beginnings of Christianity; and Mohammedanism broke down the tribal divisions of the Arabs and established mighty kingdoms.

168. Authority in the military state. In the military state the old nobility based on birth or wealth was replaced by a new group composed of men of ability who formed the chief followers of the leader or king. Custom was no longer regarded as sacred and unchangeable. By its nature, warfare is competitive and puts a premium upon ability and upon success, and successful war leaders were often men who disregarded traditions and laid down new rules. Moreover, the very process of migration and conquest created a new environment and gave rise to new situations for which the customary rules furnished no guide. The enforced will of the chieftain or king became therefore an additional source of law, and the idea of change and progress was introduced. By degrees the various barriers between the state and its individuals were broken down until a political system such as that of Rome or of the modern state was possible.

169. General evolution of military type. By some such process the state, as a purely political institution, gradually arose.[1] By warfare and conquest the state was consolidated within and expanded

[1] Giddings, Principles of Sociology, pp. 299–324.

without. The tribal chief was transformed into the warrior-king, who, however, often borrowed the patriarchal theory of descent and made his office hereditary, and further strengthened his position by allying himself with the church or by claiming divine descent or authority. The council of clan elders was replaced by the council of the kingdom, composed of the king's followers or companions, at first forming a powerful bulwark for royal power, but gradually, as the theory that the king must consult his council developed, laying the foundations for constitutional government and popular liberty. Over outlying districts the king maintained his control by accepting the allegiance of the former tribal chieftains or of rival war leaders, using them as his agents, or by placing over the conquered peoples officials of his own choosing. In this way a system of local government was established and the financial and military resources of the state were organized. "Thus at length the gentile is converted into the civil organization of society. Civic association, irrespective of kinship, becomes the basis of political coöperation. Gradually tribal lines are more or less artificially redrawn, and at length it is forgotten that local boundaries ever marked tribal domains and that village names were once the names of clans. The tribal confederacy has become the territorial state." [1]

170. Interrelation of kinship and military types. Naturally, both types of organization — the patriarchal, personal, industrial type and the political, territorial, military type — existed for a long time side by side; and even in modern states traces of both systems may still be found. Some, China and India, for example, show the predominant influence of gradual, peaceful integration on the basis of family, religion, and economic influences. Others, such as the Roman Empire and the states of modern Europe, were largely the result of conquest, and exhibit the characteristics of their military origin and purpose. Medieval feudalism, the transitional stage between the tribal and the political forms of organization in western Europe, was an example of the process of fusion; and essentially similar systems of social structure arose in various other parts of the world under similar conditions of transformation.[2]

[1] Giddings, Principles of Sociology, pp. 321–322.

[2] Egypt and Japan are examples of states which passed through a similar feudal form of social organization. See Hazen, Europe since 1815, pp. 687–695.

VI. Stagnation and Progress

171. Causes of stagnation. Several of the causes that created the state tended to discourage further change or growth. It is therefore not surprising that the earliest states made few permanent contributions to political ideas, and that it was only after a long and tedious evolution that the difficult problems of government approached any degree of solution. The warm climates in which social progress began were not conducive to energy; and large populations, making labor and life of little value, minimized the importance of the individual and prevented initiative and ambition.[1] In fact, the very conditions that were most necessary at first became later the greatest evils. That which was most needed in the formation of the state was discipline and organization. Primitive man must subordinate his anarchic selfishness and learn obedience. Under these conditions groups with the best family systems, the strongest religious bonds, and the most rigid customs survived at the expense of more loosely organized groups. Early states arose and maintained themselves only by perfecting their discipline, by making the rule of the patriarch or chief more absolute, the sanction of religion and custom more inviolable.[2] Stagnation, however, is the fate of any organization that fails to adapt itself to changing conditions; and the ideals which the infancy of political society created formed a system of caste, of custom, of superstition, and of despotism that still controls the greater part of the world. Progress is a recent and, in many respects, an exceptional idea. Early states, cut off from their neighbors by natural barriers or by vast distances, tended toward stagnation. Freedom from external danger led to a decadent race stock, and the lack of competition and conflict among different ideas fixed original customs the more firmly.[3]

172. Beginnings of progress. It has been in comparatively recent times, and in a small part of the earth only, that the fixity of primitive ideas has been replaced by the ideal of progress, and that the modern state has developed. This was made possible by

[1] Buckle, History of Civilization in England, Vol. I, pp. 30–47.
[2] Bagehot, Physics and Politics, chaps. i–iv.
[3] Spencer, Principles of Sociology, Part V, chaps. i–v.

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the gradual spread of civilization westward and by the movements of peoples. Aside from the natural advantages of the new environment, mere change of scene and of conditions opened the minds and modified the customs of the newcomers in spite of themselves.[1] The contact of tribe with tribe slowly but powerfully affected the ideas of both. New institutions were imitated by some and forced upon others. Change once begun, further change took place more rapidly. In the fermentation of ideas resulting from these movements and conquests, the way for the first time was opened for individual initiative. Under new conditions man disregarded the authority of former conventions, and success was followed by further experiment and improvement. It was by some such method that political life, as distinguished from the earlier family and religious organization, emerged. The contact of peoples, with the resultant mingling or conquest, broke down the unity of kinship; and narrow tribal religion was replaced by a belief less powerful as it became more cosmopolitan. Thus the bonds of custom that fettered Oriental states were broken by war and by new conditions of life. The idea of individual enterprise and the possibility of conscious change and reform arose, preparing the way for new forms of government and for vastly different ideas of individual liberty.[2]

173. Political results of progress. This progress has taken different forms and has proceeded with varying rapidity among different peoples. In general it has been marked by the increasing control of man over the natural environment[3] and by the growing intellectual ability and social organization of the population. Physical ties of kinship have been replaced by psychic ties of nationality as the basis for state formation, and religious and political functions have become more definite and distinct. In this process, law and authority have taken on a human rather than a supernatural sanction; and the need for order and protection, due to the increasing complexity of economic and social life, has become the chief reason for political life. At the same time, unconscious evolution has

[1] Wilson, The State, pp. 28–40.
[2] Bagehot, Physics and Politics, chaps. v–vi; Ward, Applied Sociology.
[3] Ward, Pure Sociology, chap. xix; Patten, New Basis of Civilization, chap. i.

given way to purposeful action;[1] and, after numerous costly experiments, men have learned how to extend governing authority safely over wide areas and how to intrust governing powers safely to a large proportion of the people.[2] In this way authority and liberty have been reconciled, and the state, no longer looked upon with dread as a tyrannous monster, has entered upon a constantly widening sphere of usefulness. Many peoples have contributed to this progress;[3] and modern states, building upon the foundations of the past, are still occupied in the effort to adjust political institutions to changing conditions of civilization. Even those peoples whose civilization has remained stagnant for centuries show signs of awakening,[4] and the spirit of progress created by the western nations bids fair to secure universal acceptance.[5]

VII. Origin of Modern States

174. Recent origin of existing states. In contrast to the process by which the earliest states came into being, a process which took place before recorded history begins, may be noted the methods by which those states now existing were established. Most of the ancient states perished centuries ago, and the majority of present-day states were founded within a comparatively recent period. "In the Middle Ages, the state in its modern sense had no existence. Society in the greater part of Europe subsisted under two forms; the church and the empire, theoretically correlated, and each claiming universal sway. Locally, the peoples were ruled by their princes, secular and spiritual, who, under the gradations of the feudal system and the ecclesiastical hierarchy, formed a double series of related obediences. Each prince had his *état*, his status, which implied some kind of authority; but the state in its modern sense had no being. With the formation of the national monarchies, the sovereigns, aided by the people in crushing out the more

[1] Kelly, Government or Human Evolution: Justice, Bk. II.

[2] See below, Chapter VIII, sections 340–366.

[3] Dealey, Development of the State, pp. 220–233, 300–314.

[4] For example, China and Japan. See Robinson and Beard, Development of Modern Europe, chap. xxx.

[5] Hobhouse, Social Evolution and Political Theory, chaps. i–ii, vi–viii.

immediate and therefore more oppressive feudatories, gradually assumed the authority within their realms, established their law-courts, formed their national armies, and offered a better administration and a more sure protection against wrong and invasion. Through the development of parliaments, assemblies, and finally formal constitutions, public authority became less personal and more institutional and thus created the state in its modern sense."

175. Chief influences in origin of modern states. "It is important to note that, in the process of its evolution, the state has been chiefly the product of will, only dimly guided by intelligence. Neither natural geographic boundaries, nor racial affinities, nor linguistic community have determined its formation. Its primal cause was dynastic interest supported by military force. Only in very recent times has theory had any influence upon the constitution of the state. It sprang from more or less accidental cohesions, in which marriage and the combination of inheritances played a large rôle, and intelligent constructive design comparatively little. Thus came into being certain definite complexes of associated populations, presided over by the more powerful princes through successful competition with the less powerful, dwelling within given territorial areas more or less fortuitously or arbitrarily combined, and delimited by the like growth of rival neighbors. Within these areas, through the coöperation of dynastic authority and the community of historic memories created by participation in a common cause of defence, development, and expansion, the national units of Europe have been formed."[1]

176. New state not created by internal changes. The formation of a new state must not, of course, be confounded with internal changes or revolutions by which the type of state is changed, its government reorganized, or its sovereign power relocated. Thus the Roman city state became the Roman world state, and its internal organization was transformed in turn from monarchy to republic and to empire. Yet the continuity of its political life was not broken until the barbarian invasions. Such changes mark different periods in the life of the same state, not the establishment of new states; yet the line separating internal changes in

[1] Hill, World Organization and the Modern State, pp. 16–17.

governmental organization from the external transformations that create new states is sometimes difficult to draw.[1]

177. Methods of forming modern states. Bluntschli distinguishes three main methods by which modern states have been formed:[2]

1. Original forms, when states take their beginnings among peoples in their own territories, without being derived from already existing states. This process may take place in several ways. The inhabitants of a certain area may, by the gradual evolution of social life as discussed in the preceding part of this chapter, establish political institutions and create a state. Such was the origin, so far as we know, of Athens and Rome.[3] It more often happens that a group of peoples who realize their national unity and who have established political institutions take possession of territory, either by settlement or by conquest, and there set up their state. In this way the Jews created their theocracy in Palestine, the Dorian Greeks their city at Sparta,[4] and the Teutonic tribes their kingdoms on the ruins of the Roman Empire.[5]

2. Secondary forms, when states are produced from within, yet are based upon already existing states which either unite themselves into one or divide themselves into several. The former of these processes usually passes through several stages. States among whom common interests develop first form treaties or alliances. Later they may establish a common government to control affairs of mutual interest, retaining however their independent existence and their supremacy over the common agent. This forms a confederation, but not yet a new state, the component parts still retaining their sovereignty.[6] The final step is the absorption of all by the stronger, as was practically the case in the establishment of the modern German Empire; or the voluntary union of all into a single new state, as in the formation of Switzerland and the

[1] Moore, International Law Digest, Vol. I, pp. 248–254; Hershey, Essentials of International Public Law, chap. viii.

[2] Theory of the State, Bk. IV, chaps. i–iv.

[3] Fowler, City State of the Greeks and Romans, chap. ii.

[4] Oman, History of Greece, pp. 48–51, 60–80.

[5] Emerton, Introduction to the Middle Ages, chaps. iii–vi.

[6] Garner, Introduction to Political Science, pp. 142–148; Moore, op. cit., section 10; Jellinek, Staatenverbindungen, pp. 172–194.

United States. Frequently states have lost their identity by being involuntarily absorbed by more powerful neighbors, usually as the result of conquest. This can scarcely be considered as the establishment of a new state, but rather as an expansion of the more powerful state. In this way the Greek cities became part of the Roman Empire, Scotland and Ireland became part of Great Britain, and the kingdom of Naples part of Piedmont in the formation of united, Italy. States may be divided, with the resultant formation of new states, in several ways. When a state is composed of divergent nationalities, or occupies several distinct geographic units, or contains sections having widely different interests, these tend naturally to fall apart and form separate states when the power of concentration that formerly held them together is weakened. Thus the empire of Alexander fell to pieces after his death, the Roman Empire split into its eastern and western divisions, and in modern times Belgium and Holland separated in 1830,[1] and Norway and Sweden in 1905.[2] During the Middle Ages, when the state was considered the personal property of the ruler, his death was often followed by the division of the kingdom among his sons. In this way Charlemagne's empire fell to pieces and the foundations were laid for modern France and Germany.[3] A common form of separation results from revolt on the part of a certain section of a state against the remainder. If this section declares itself independent and is successful in maintaining its claim, it sets itself up as a new state.[4] In this way the Netherlands became independent of Spain in 1579, the North American colonies from England in 1776, and more recently Greece and the South American republics established themselves as independent states.[5]

3. Derived forms, which receive their impulse and direction from without, not from within. Of such nature was a large part of Greek colonization, consisting of communities deliberately sent out from the home cities with the idea of forming new and independent

[1] Hazen, Europe since 1815, pp. 101–106.

[2] Ibid. pp. 597–600.

[3] Bryce, Holy Roman Empire, chap. vi; Emerton, Medieval Europe, chap. i.

[4] Moore, International Law Digest, Vol. I, chap. iii; Hershey, Essentials of International Public Law, chap. vii.

[5] Paxson, Independence of the South American Republics.

political units.[1] Great conquerors have sometimes used their authority to destroy and to create states. Napoleon rearranged the map of a large part of Europe according to his will.[2] In more recent times the concert of powers, consisting of the leading European states, have exercised similar authority, as their actions at the Congress of Vienna in 1815 and at later conferences bear witness.[3]

[1] Morris, History of Colonization, Vol. I, chap. iv.
[2] Andrews, Historical Development of Modern Europe, Vol. I, chap. ii.
[3] Hertslet, Map of Europe by Treaty, Vol. I.

CHAPTER V

THE STATE AND THE FUNDAMENTAL SOCIAL INSTITUTIONS

178. Relation of state to other social institutions. The course of social development has been marked by the rise of a number of institutions more or less closely related to that political organization which finally differentiated from the others and became the state. In some cases these institutions have become so distinct from the state that few points of contact remain. Again they have been thoroughly subordinated to the state and brought under its authority. In other cases they have become separate, but still exercise considerable influence upon the state, in some cases determining its fundamental nature and activities. The four factors, — kinship, religion, industry, and war, — through whose influence chiefly the state was formed,[1] have each created institutions, more or less distinct from the state, namely, the family, the church, the military and police systems, and the industrial and commercial organizations. The evolution of these groups, at first scarcely distinguishable from such political machinery as then existed, to the degree of independence or subordination which they occupy in the modern state, and the influences that they have brought to bear and still exert on political structure and function are among the most interesting phases of political development.

I. The State and the Family

179. Political nature of early family. In early group life the kin or family was itself a sort of political society. It was a more or less permanently organized body; it exercised control over its members which they regarded as rightful authority, not as mere force; it was not limited by any higher authority; and it acted with a considerable degree of effectiveness for the interest of the

[1] See above, Chapter IV, sections 136–170.

whole.[1] This authority was vested sometimes in the chief or priest, sometimes in the council of elders, sometimes in the head of the household, and reached its highest development in the *patria potestas* of the Roman father.[2] Associations formed on the basis of sex, such as the men's clubs and secret societies often found within the family groups, were centers of public opinion, formulated and enforced certain customs and ceremonies, and in some cases assumed judicial and punitive authority over their members.[3] The primitive state was, in essence, an enlarged family, and the kinship group performed functions, many of which are now of a purely political nature. Property, with some slight exceptions, belonged to the group and was administered in behalf of the kin as a whole. Marriage relations were strictly regulated; authority over children sometimes included even the power of putting them to death. The entire group was responsible for the actions of all its members, and an injury to any member was an injury to the entire group, responsibility sometimes varying with the degree of nearness of kin.[4] Within the group rights existed and justice might be claimed, but an individual had no legal status except in his own kinship group. The stranger was indeed an "outlaw," and exile was a much-dreaded punishment.[5]

180. Beginnings of separation between state and family. A number of conditions caused the state to outgrow the family and to subordinate its interests and its authority to that of the wider political organization. The expansion of the state in area and population, due to improved economic methods or to conquest and the mingling of peoples, broke down the exclusiveness of the family, replaced ties of kinship by feelings of national unity or patriotism, or by the forced subjection of the conquered to a conquering class, and placed governing authority on a territorial rather than on a personal basis.[6] During this process, certain functions, formerly controlled by the family, became of increasing public importance; and the state, accordingly, took over from the family the regulation of property and of its succession, the rights and responsibilities of

[1] Dewey and Tufts, Ethics, pp. 26–27; De Coulanges, Ancient City, Bk. II; Morgan, Ancient Society, Part II. [2] Wilkins, Roman Antiquities, pp. 50–51.
[3] Webster, Primitive Secret Societies.
[4] Gray, China, Vol. I, pp. 237 ff. [5] Frisch, Das Fremdenrecht, p. 3.
[6] Hobhouse, Social Evolution and Political Theory, chap. vi.

kinship, and the punishment of debt and crime. Thus the Twelve Tables of Roman Law, enacted in the fifth century B.C., made provision for new forms of marriage and of inheritance and placed restrictions upon the power of a father over his sons.[1]

181. Disintegration of the family in the Roman Empire. A little later, when the philosophy of the Greeks and Romans, and especially the ideals of Christianity and the customs of the Teutons, in distinguishing between the family proper and the group of slaves and retainers, gave rise to the monogamous family of modern times, the family was reduced to a natural unit, and a number of private interests were made possible with which the state had little concern. In fact, by the beginning of the Christian era relations between the sexes had become very loose, and the family seemed to be breaking down.[2] The destruction of the domestic religion removed the foundations of the family. Ancestor worship, adapted to isolated groups, could not withstand the changes in economic conditions which transformed pastoral tribes into agricultural, industrial, and commercial communities, or the changes in political conditions which welded patriarchal groups into cities; and it was replaced by the worship of nature or by a skeptical philosophy. The growth of divorce and of vice also demoralized family relations. Marriage became merely a civil contract, its continuance depending upon mutual consent, and family obligations were treated with extreme levity. Seneca said that there were women who reckoned their years by their husbands,[3] and St. Jerome asserted that there existed at Rome a wife who was married to her twenty-third husband, she being his twenty-first wife.[4]

182. The medieval church and the family. One of the first tasks of Christianity, therefore, was the reconstruction of family life.[5] The church tried to abolish divorce and fought the vices of concubinage and prostitution which flourished in the pagan world. In order to make the family more stable, marriage was made one of the sacraments, the church constantly opposing the doctrine of the Roman law that marriage was a contract. Thus marriage was

[1] Lee, Historical Jurisprudence, pp. 195–206.
[2] Lecky, History of European Morals, chap. v.
[3] Seneca, De Benefic., iii, 16.
[4] St. Jerome, Epistle 2.
[5] Schmidt, Social Results of Early Christianity, chap. ii.

again regarded as a religious bond and, while the family was organized on a semipatriarchal basis, the wife being subject to her husband, the position of women and children was, in some respects, improved. The adoration of the Virgin, in particular, tended to increase the respect in which womankind was held. On the other hand, the ascetic ideals of the church and its attempt to enforce celibacy upon the clergy exerted a demoralizing influence upon family life, encouraged vice, and tended to depreciate the character and position of woman.[1] Accordingly, after the fall of the Roman Empire, and during the political chaos of the Middle Ages, the church almost supplanted the state in its regulation of the family, assuming jurisdiction over kinship, marriage and divorce, inheritance and wills, education, and morals.

183. The family since the Reformation. The religious theory of the family was undermined by the Reformation, and almost entirely destroyed by the great social changes of the last few centuries. New economic conditions have individualized society, and democratic ideals of government tend to make the individual the political unit. At the same time, the growth of wealth has resulted, among some classes at least, in lower moral standards and increasing laxity in family relationships.[2] The belief that marriage is a private contract again prevails among the mass of the people and is embodied in the laws of many states. The modern state, therefore, has freed the family from church control and has assumed the regulation of all family relations that are affected with a public interest. "Marriage has become civil, divorce is granted, if at all, by the courts or by lawmaking bodies, kinship rights and the will are regulated by law, education is secular and largely supported by the state, which also acts *in loco parentis* in case of parental neglect or incompetency, or of complete orphanage."[3] The family remains as the foundation of the social system in modern society; but its political authority has disappeared, and it finds its most important functions taken over or regulated by the political organization which it originally was largely instrumental in creating.

[1] Lecky, op. cit., Vol. II, pp. 388–390.
[2] Ellwood, Sociology and Modern Social Problems, chap. vii.
[3] Dealey, Development of the State, pp. 108–109.

184. Present problems in the family. At the present time two problems growing out of the family as a part of the political system are of prime importance.[1] One has to do with the question of equality or inequality within the family, and opens up the subject of woman's legal and political rights and privileges. The other has to do with the control of the state over the family and centers around the much-disputed question of divorce. Both problems have been brought to a crisis largely through the economic changes of the Industrial Revolution, which transferred production from home to factory, destroyed the former unity of the family as an industrial unit, made women more independent by opening to them new occupations, and brought out more strongly by contrast the narrow life and social inferiority of domestic employment.[2] The general growth of intelligence and the theories of political democracy have contributed to the same result.

185. Political position of woman. While there have been in the past social systems built up on the theory of matriarchal authority, during the greater part of human history man has exercised or has had the legal right to exercise authority. Woman was primarily a member of a group based on sex, and only secondarily a person. In the course of the past century increasing legal rights were granted to women, until in most respects they now possess full equality before the law, although in general the important exception of suffrage still remains.

186. Woman suffrage. While the doctrine of universal suffrage received consideration in France during the early stages of the French Revolution and was advocated during the past century by many eminent thinkers in England and in America,[3] it is only in recent years that experiments in the practical application of the theory have been permitted.[4] At present, women possess extensive political rights in Australia, Tasmania, New Zealand, Norway, Finland, and in several American commonwealths, the right to hold office being somewhat more limited than the right of suffrage. Partial suffrage rights have been granted to women in Canada,

[1] Cooley, Social Organization, chap. xxxi.
[2] Sidney and Beatrice Webb, Problems of Modern Industry, chaps. iii–iv.
[3] Mill, The Subjection of Women; Story, Commentaries, Vol. I, section 579.
[4] Garner, Introduction to Political Science, pp. 508–516.

England, several European states, and more than half of the American commonwealths. Vigorous agitation for the extension of woman's share in government is being carried on, especially in England and the United States, and a wider application of the principle seems likely.[1]

187. Arguments for woman suffrage. In favor of woman suffrage it is urged that sex is not a proper test for determining the privilege, since the proper criterion is moral and intellectual, rather than physical. It is further claimed that women need the privilege as a protection, in order that they may defend themselves against unjust class legislation made by a government composed of men alone. Besides, the same reasons that secured the civil and legal rights of women are argued as reasons why political equality should logically follow; and it is claimed that the admission of women into government and politics would elevate the tone of public life, purify political conditions, and insure better government.

188. Arguments against woman suffrage. By those who oppose woman suffrage it is held that the active participation of women in government would tend to destroy the family, since the burdens of political life would interfere with the duties of childbearing and the rearing of families. There would also be the possibility of dissension resulting from political disagreement between husband and wife. Some opponents of woman suffrage emphasize the fact that women are by nature unfitted to discharge all the obligations of citizenship, — for example, police duty and service in the army, — and that therefore they have no right to expect the full privileges of citizens. Finally, it is said that women in most states do not desire the suffrage and that where they possess it they fail to take advantage of the privilege.[2]

189. Present position of woman. Opportunities for education and for a complete share in the thought and life of civilization have also but recently been open to women. "Public school education for girls is scarcely a century old. College education for women, in a general sense, is of the present generation. But the conviction has steadily gained that democracy cannot treat half the race as

[1] Schirmacher, Modern Woman's Rights Movement, trans. by C. C. Eckhardt.
[2] Sumner, Equal Suffrage.

inferior in dignity or exclude it from the comradeship of life."[1] However, the results of the economic, intellectual, and political emancipation of women upon marriage and the stability of the family, or upon the form that the family shall take, suggest difficult questions for the future.[2]

190. Divorce. From one point of view the evolution of divorce is a phase of the improving social and legal position of woman. In early times woman was practically a slave, and little restriction was placed on the authority which man might exercise over her. If the wife displeased the husband, she might be killed or driven away. Later, the husband usually contented himself with repudiating her; next, the severity of the right of repudiation, at first unlimited, was mitigated; then it was restricted to certain well-defined cases, and some rights were even granted to the repudiated woman. At length her own right was recognized to seek divorce in order to escape from intolerable treatment.[3] When the family was under church control, divorce was regulated by religious authority, as was the case in the Middle Ages, and remains to-day among Roman Catholic peoples. In the absence of church control, the state determined the conditions of divorce, as in the Roman Empire and in most modern states. At present divorces are granted by the courts or by legislative bodies.

191. Causes of increasing divorce. A number of causes tend to increase the frequency of divorce, with resultant instability of family relations, especially in the United States.[4] The decay of the religious theory of marriage and the family, the growing spirit of individualism resulting from our democratic government, the development of our industry and our education, and the recent movement for the economic, mental, and legal emancipation of women all have weakened family ties. Modern industrialism tends to disrupt the home by opening new occupations to women, by setting the sexes in competition with each other, thus emphasizing their individualism and reducing sexual differences, and by unfitting many girls for domestic duties and responsibilities. The conditions

[1] Dewey and Tufts, Ethics, p. 600. [2] Bosanquet, The Family.
[3] Letourneau, Evolution of Marriage.
[4] Ellwood, Sociology and Modern Social Problems, pp. 123–132.

of city life, one result of modern industrialism, seem to be particularly unfavorable to the stability of the family.[1] Higher standards of living, while desirable in themselves, prevent many from meeting the demands of a home, and the higher age of marriage, naturally following, makes difficult the temperamental adjustment of husband and wife necessary for satisfactory family life. Increasing laxity in the laws regarding divorce and in their administration, as well as the growing popularization of law and the tendency of all classes to appeal to the law for remedies of all sorts, is an important contributing factor.[2]

192. New type of family in formation. As a result of these general conditions, the semipatriarchal family of a century ago, based on authority, is disappearing, and a new, democratic type of family, in harmony with our democratic civilization, is not yet evolved. During the transition there is naturally much disorganization and disintegration; and the position of the state, in determining the nature and obligations of the family and in fixing the legal and political position of women, is correspondingly difficult. The problem demands such adjustment as shall secure the greatest degree of individual liberty and of equality between the sexes, without sacrificing the stability of the family or the best interests of the state.[3]

II. The State and the Church

193. Union of early church and state. In early times state and church were scarcely differentiated. Rulers were also priests and their power was upheld by common belief in their divine origin and authority. The priestly class had special privileges, formed the chief advisers of the rulers, and themselves exercised large governing powers. Church and state were one in organization and in purpose.[4] This condition created a conservative civilization, each powerful force supporting the other, and both opposing any change that would weaken their combined control.

[1] Special report on "Marriage and Divorce, 1867–1906," Bureau of the Census.
[2] Wright, Practical Sociology, chap. x.
[3] McKechnie, The State and the Individual, chap. xxiv.
[4] Garner, Introduction to Political Science, pp. 87–91, 128–131; Waitz, Grundzüge der Politik, pp. 36–42.

194. Divine sanction of early authority. In the Oriental empires religion and politics were indistinguishable, all law finding its sanction in the sacred writings, and all authority resting on the divine nature of the rulers.[1] The Hebrews built up their theocracy on the belief that their state was not only founded by God, but directly ruled by Him. The Greeks and Romans viewed the state as indirectly divine in origin, resulting from the very nature of man, and believed that the gods continued to influence its destiny; although in practice the Romans distinguished between divine and civil authority, considering law as created by the state and its final authority as resting in the Roman people. In order to impress his Oriental subjects, Alexander the Great had himself proclaimed the son of Jupiter, and worship of the emperor was required by law in the Roman Empire.[2]

195. Forms of divine-right theory. As the doctrine of the divine nature of the state developed, by some the office of ruler, regardless of its occupant, was considered divine, while others extended the idea of divinity even to the particular individual who, at the given time, held the title.[3] This theory made obedience to political authority a religious duty and naturally accompanied that phase of political development when church and state were united, when churchmen were political leaders, and when supernatural authority was needed to secure obedience or to prevent revolution.[4]

196. Church and state in the Middle Ages. This theory, while forming the unquestioned basis of Oriental political philosophy, and while tacitly underlying the theory of the Greeks and Romans, was not definitely formulated until the Middle Ages. Political doctrines seemed to have little interest for the founder of Christianity. The Golden Rule, upon which Christianity was based, is rather unpolitical, since obedience to its spirit would obviate much of the need for coercive authority. In bringing hope to the humble and oppressed and in disparaging the powerful, the early church

[1] Bluntschli, Theory of the State, Bk. VI, chap. vi.

[2] The Amphictyonic Council of the Greeks was a good example of the close connection between religious and political institutions. See Freeman, History of Federal Government, Vol. I, pp. 126–129.

[3] Bluntschli, op. cit., Bk. IV, chap. vii.

[4] Burgess, Political Science and Constitutional Law, Vol. I, pp. 59–62.

also exerted an unpolitical influence.[1] In fact, the early Christian church was avowedly an organization claiming dominion over spiritual interests only, and the supremacy of the civil power in temporal affairs was freely admitted.[2] For its first three centuries the new religion struggled against the state, and the distinction between the domain of religion and that of government established during this period had important results on political development. On the one hand, politics was freed from the strict rules formerly laid down by religion and could conform its actions to social needs and the moral law. On the other hand, the action of the state was limited to a control over only a part of man's nature, and a spirit of resistance was aroused against attempts to interfere with freedom of belief and of conscience.[3]

197. Importance of medieval church. After the Teutonic invasions, the church became more powerful and more political. Growing up on the ruins of the Roman Empire, it adopted imperial organization under the papacy, and its power was further strengthened by the superstitious reverence in which it was held by the victorious barbarians. The absence of strong government and the power of religious ideas over the minds of men led the church to take upon itself many functions of the state. Preservation of peace and order was largely in its hands, and with its growing wealth in land came corresponding political authority. Even a separate system of law and of courts was developed, and its monopoly of learning made great churchmen the chief officials and advisers in government.

198. Formulation of divine-right theory. As the temporal power of the church increased, and the growing struggle between emperor and pope raised practical questions demanding specific theories for their support, a more definite formulation of the proper spheres of church and state was needed.[4] The leaders in this controversy, however they might differ in their opinions as to the relative power of civil and spiritual rulers, were agreed that all

[1] Dunning, Political Theories: Ancient and Medieval, pp. 152–154.
[2] Gettell, Readings in Political Science, p. 113.
[3] De Coulanges, Ancient City, pp. 519–529.
[4] Willoughby, Nature of the State, pp. 42–50.

authority came ultimately from God, bestowed by Him upon His earthly vicegerents.[1] Clear statements of this theory were set forth by the popes and the church fathers,[2] the Augsburg Confession of 1530 summing up the prevailing belief by declaring that all authority, government, law, and order in the world have been created and established by God himself.[3] Dante, who argued for temporal supremacy, believed nevertheless that political authority came from God;[4] and the leaders of the Protestant Reformation, Luther, Zwingli, and Calvin, likewise emphasized the divine origin of political power and the necessity of obedience to civil authority.[5]

199. Divine right in the absolute monarchies. Toward the end of the Middle Ages the growth of strong national monarchies attacked the influence of the church and separated more clearly religious and political ideas, although more than a century of religious wars, civil and international, were needed before this distinction was realized. As the temporal power of the church declined, the contest was no longer one between emperor and pope, but between rulers and subjects; and in this conflict the divine-right theory was applied, not so much to the origin of political power, but rather to the authority of the existing monarchs. James I of England[6] and Bossuet in France[7] boldly asserted that kings ruled "by grace of God" and were responsible to Him alone. In the "Patriarcha" of Filmer, who wrote during the latter part of the seventeenth century, the theory reached the height of its extravagance; and, although completely destroyed as a system of political thought by the writings of Grotius,[8] Hobbes,[9] and Locke,[10] it reappeared in the reaction after the French Revolution, being clearly stated in the treaty of the Holy Alliance in 1815.[11]

[1] Dunning, Political Theories: Ancient and Medieval, chaps. vi–ix.
[2] Gettell, Readings in Political Science, pp. 113–114.
[3] Tschackert, Die unveränderte Augsburgische Konfession. See also Thomas Aquinas, De Regimine Principum. [4] De Monarchia.
[5] Dunning, Political Theories: From Luther to Montesquieu, chap. i.
[6] Works of James I, p. 556.
[7] Politique tirée des propres paroles de l'Écriture sainte.
[8] De Jure Belli ac Pacis. [9] Leviathan.
[10] Two Treatises of Government.
[11] Article II. See Hertslet, Map of Europe by Treaty, Vol. I, pp. 317 ff.

Even to-day monarchs are supported by a shadowy belief among the masses in the divinity of kings; the rulers of Russia, Turkey, and Japan still rely upon the support of religion; and even the German emperor has asserted the claim to rule by divine right.[1] Several of the American colonies were founded on a religious basis;[2] Washington in his first inaugural address asserted the active interest of Providence in the establishment of the American nation;[3] and in the writings of Mulford[4] and Brownson[5] in America, and of Stahl[6] and Haller[7] in Germany, the divine theory but slightly changed has recently been proclaimed.

200. Separation of church and state. For centuries, however, many influences have been at work tending to disturb the ancient combination of state and church.[8] Sometimes reformers have attacked evils in both; frequently church and state, each trying to usurp the functions of the other, have been brought into conflict, resulting sometimes in the subordination of state to church, as during the papal supremacy in Europe about the thirteenth century, sometimes in the subordination of church to state, as during the latter part of the reign of Henry VIII in England, sometimes in a division of powers, as in the numerous concordats arranged by the Roman Catholic church.[9] In general, the growth of knowledge, of intercourse among peoples with different religions, and of material progress, creating new interests and new forms of wealth, have resisted the conservative and often despotic authority of the intrenched politico-religious rulers, and have broken down the union of church and state.[10] When the state became industrial and commercial, the church usually failed to adjust itself readily to the new environment, and a more or less complete

[1] Schierbrand, Germany, pp. 17, 21.
[2] Osgood, American Colonies in the Seventeenth Century, pp. 201–202, 323.
[3] Old South Leaflets, No. 10.
[4] The Nation, chap. iv.
[5] American Republic, p. 126.
[6] Die Philosophie des Rechts.
[7] Restauration der Staatswissenschaft.
[8] Geffcken, Church and State, trans. by E. F. Taylor.
[9] For example, the Concordat of Worms (1122). See Henderson, Historical Documents of the Middle Ages, pp. 408–409.
[10] On the separation of church and state in the United States, see Merriam, American Political Theories, pp. 193–196.

separation followed.[1] In this process four fairly well-defined stages may usually be distinguished :[2]

1. The state and the church separated in organization, personnel, and function, but worked in harmony.

2. The state subordinated the church so effectively that it became virtually a department of governmental administration, dominated by the ruler and his ministers.

3. The church freed itself from governmental control in spiritual matters, but was financially chiefly supported by the state.

4. The church became entirely separate from the state and was no longer supported from public funds.

201. Diminishing scope of church functions. In this conflict the church, becoming a more purely spiritual and devotional institution, lost many of its original functions. As state support and state funds were withdrawn, it became necessary that other social institutions or the state itself should perform, or at least share in, needed services formerly under church control. Among these may be mentioned morals, domestic regulations, charity, education, medicine, scientific investigation, philosophy, and amusements. The influence of the church along these lines, while sometimes powerful, is no longer authoritative.[3]

202. Distinction between law and morality. As a logical result of the increasing separation of church and state, the theory that the state was of divine origin or that its authority has a supernatural sanction is no longer seriously held by political philosophers. The influence of religion in the early stages of political life was indeed enormous ; but the state is, nevertheless, a human institution, whose authority is exercised by human agencies and is dependent upon human sanction.[4] The moral obligations of religion, which refer to motives and are enforced by fear of divine displeasure, are quite different and sometimes directly opposed to the legal obligations of the state, which refer to outward acts and are supported if

[1] Cooley, Social Organization, chap. xxxii.

[2] Dealey, Development of the State, pp. 113–114.

[3] For a discussion of the proper relation between the state and religious associations, see Sidgwick, Elements of Politics, pp. 583–588; Woolsey, Political Science, Part III, chap. xii.

[4] Seeley, Introduction to Political Science, Lecture II.

necessary by human physical force.[1] Of these outward acts the state, through its laws, attempts to control only such as affect the welfare of men in society, and as can be brought under uniform and practicable regulation. It necessarily follows that many things considered morally wrong are not prohibited by law; and, on the other hand, law often follows standards of expediency and prohibits things not considered morally wrong. There is, thus, a legal conscience as well as a moral conscience, and they do not always coincide. Some persons prefer to be martyrs to the law rather than to forsake their moral opinions; others disregard morality so long as they can keep on the safe side of the law.

203. Connection between law and morality. Probably the closest remaining connection between religion and politics, among those peoples who have separated church and state, is the influence exerted upon legislation by religion and the moral precepts which it supports. Widespread ideas of right and wrong, representing prevailing ethical standards, always tend to be crystallized into law. To be effective, law must represent national habits and beliefs. Laws that attempt too soon to force new moral ideas or laws that are no longer in touch with existing ethical conditions are alike difficult to administer. There is always a mass of public opinion clamoring for legal expression, and a body of law becoming obsolete because inapplicable under existing conditions. Only such law as has the support of moral sentiment will be respected and obeyed or, if necessary, effectively enforced.[2]

III. The State and the Industrial Organizations

204. Industry a factor in political evolution. As the coöperative efforts of mankind in satisfying their material wants, in obtaining food and shelter, and in creating and protecting property gave a powerful stimulus to the formation of states, so the various industrial organizations resulting from the production and distribution of wealth have always borne a close relation to the political machinery

[1] Willoughby, Nature of the State, pp. 50–53.

[2] On the relations of moral and legal rights, see Wundt, Principles of Morality, Part III, chap. iv; McKechnie, The State and the Individual, chap. xxvi; Sidgwick, op. cit., chap. xiii.

of the state. In creating and supporting property rights and in enforcing contracts, the state establishes the fundamental institutions of economic life.[1] Sometimes the state has publicly controlled industry and commerce as branches of its governmental administration; again it has left their management to private hands, contenting itself with more or less extensive regulation. The commercial policy of Venice during the later Middle Ages and that of most modern states illustrate the two methods of control.[2] Sometimes industrial and commercial organizations have become powerful enough to dominate in the government of the state, and sometimes have determined its fundamental nature. Modern corporations are an example of the former, and the type of state during feudalism illustrates the latter.

205. Importance of land in political evolution. Land, the basis of all human life, was at first fought over and temporarily utilized for purposes of hunting, fishing, or root-grubbing, with no idea of ownership. In tribal states, after the pastoral and agricultural stages were reached, the grazing grounds or the cultivated fields were the property of the community; and the ruling bodies, composed of the heads of the families or the war leader and his followers, allotted the shares, adjusted conflicting claims, and enforced the customs of communal management.[3] While the origin of the idea of property in land must be sought in *user* and *seizure*, often the result of violence, it was the means of attaining a higher degree of welfare for the community as a whole. Not only did it increase production and advance civilization by inculcating qualities, such as thrift, foresight, and energy, without which continuing progress was impossible, but, by necessitating communal rules and by increasing the power of the military chieftains who were responsible for defense, it gave an impetus to political development.

206. Feudalism. With the transition to agriculture and to communal landholding, "the former personal and tribal relations gave way to territorial and political relations. In other words, the state developed and the local divisions and counties were put under the

[1] Ely, Outlines of Economics, chap. ii.

[2] Day, History of Commerce, chaps. xi, xxxiv.

[3] For the evolution of property in land, see Letourneau, Property, its Origin and Development; De Coulanges, Origin of Property in Land.

protection of the overlords. The tenants or vassals, whether individuals or groups, now paid a portion of their agricultural earnings as the price of protection, and the military occupation of the district by the chieftain before long hardened into the institution of private property. The war lord became the land lord. Thus was ushered in the system of feudalism, based on the preponderance of the manorial lord and the hierarchy of social relations. In some cases the cultivators lost their original prerogatives and dwindled into mere tenants without any property rights at all. In other cases they contrived gradually to free themselves from their rents and other feudal payments, while at the same time the common cultivation gave way, under the impulse of more modern methods, to individual tillage. The land became thus the private property of either the lord or the peasant. The private property of the feudal chieftain meant the growth of security and social order; the development of landed property within the communal group of cultivators was the result of the recognition of the social importance of individual action." [1]

207. Territorial sovereignty. As national monarchies arose in modern Europe, the feudal theory that the king was lord of the soil survived, and on this basis the state assumed supreme jurisdiction over all its territory. Even in modern democratic states, by the legal regulation of the holding and transfer of land and by the rights of taxation and eminent domain, the state asserts a claim superior to that of any individual. The private owner's right to use his land is limited by laws enacted for purposes of general welfare; and the right of bequest is modified by inheritance taxes that may amount to practical confiscation. Modern states determine who may or may not acquire property in land,[2] limit the size of any single holding,[3] and are themselves large landowners.[4] Even the theory of land nationalization, by means of the "single tax," has many supporters.[5] At present, states are extending their control

[1] Seligman, Principles of Economics, p. 130.

[2] The right of aliens to own land is limited, even in some parts of the United States. See Garner, Introduction to Political Science, pp. 368–369.

[3] As in New Zealand.

[4] It is estimated that the United States has possessed at one time or another a public domain of 2,825,000 square miles.

[5] George, Progress and Poverty.

over land because of the necessity of conserving their natural resources, and because of the growing belief that natural monopolies should be brought under strict governmental control or even ownership.[1] Mines, forests, and water rights have acquired public importance to such a degree that purely private ownership is sometimes dangerous.[2] The high seas and navigable waters with few exceptions are communal property, controlled entirely by public authorities.[3]

208. The state and the food supply. The state has always taken an active part in securing, safeguarding, and increasing the food supply of its people. In some cases, as in Rome, the state undertook a public distribution of food among its citizens. Drainage and irrigation have been public functions for thousands of years. Moreover, the need for irrigation fundamentally affects the relative importance of private and public rights over land. "The English common-law conception of private property — the property that reaches, as has been picturesquely said, from heaven to hell — is a product of a moist climate, of conditions where there is an abundance or superabundance of water, and where private interest could be safely depended upon to give the best results. But in the arid and semi-arid regions of our western states neither occupation nor labor is deemed to give an equitable title to the river or the adjacent riparian lands. The new code of private property which is springing up in the West is one in which individual rights are clearly and forcibly held subservient to those of the community."[4] When population presses upon the means of subsistence, wars are waged or colonies founded, both under the control of the political authority. The historical development of the British Empire and the present international position of Germany and Japan are dominated by the necessity that these states shall secure food and employment for their people and markets for their products.[5]

[1] Seager, Introduction to Economics, pp. 443–459; Ely, Problems of To-day, chaps. xvii–xxi.

[2] Van Hise, Conservation of Natural Resources.

[3] Lawrence, Principles of International Law, pp. 187–211; Hershey, Essentials of International Public Law, pp. 201–219, and authorities there cited.

[4] Seligman, Principles of Economics, p. 134.

[5] Reinsch, World Politics, Part I, chaps. iv–v; Part IV.

209. Trade and commerce. When trade and commerce began, the state was compelled to protect market places, build and police roads,[1] improve harbors, and establish means of communication. It took over from private hands the establishment of a standard of exchange and the coining of money; it fixed a system of weights and measures;[2] and, either by establishing a banking system or by a rigid regulation of private banks, it maintained credit.[3] Some states, such as Venice and Spain, undertook commercial ventures as governmental functions; others, such as Holland, France, and England, chartered commercial companies under governmental regulation.[4] These companies, possessing governing powers, as well as trading privileges, frequently laid the foundations for colonial empires or established new states.[5] During the seventeenth and eighteenth centuries, contests for the control of colonies and commerce dominated the international situation in Europe, affecting internal governmental policies and external alliances and wars.[6] In the modern world, states negotiate commercial treaties, establish tariff barriers, and maintain a consular service and a navy for the advancement and protection of their foreign trade.[7] Countless regulations affect individuals and corporations engaged in trade, transportation, insurance, and similar ventures within the state.

210. Slavery. In early states labor came under little governmental regulation. Production and manufacture were individual or household affairs, and the first division of labor was probably that between the sexes.[8] During the greater part of human history, slavery or serfdom prevailed as the basis of industry, and political regulation was needed only to define personal rights or to ease the

[1] The Statute of Winchester, enacted in England in 1285, provided that the gates of every town should be closed and watched from sunset to sunrise, and that a clear space should be made for two hundred feet at each side of the highroads in order to make them safer for travelers and merchants. See Stubbs, Select Charters, pp. 470–472.

[2] Ridgway, Origin of Metallic Currency and Weight Standards.

[3] Dunbar, Chapters on the Theory and History of Banking, chap. i.

[4] Day, History of Commerce, chaps. xix–xxi, xxv.

[5] Cheyney, European Background of American History, chap. vii; Reinsch, Colonial Government, pp. 145–166.

[6] Cunningham, Western Civilization: Modern Times, Bk. V, chap. iii.

[7] Fisk, International Commercial Policies.

[8] Ely, Evolution of Industrial Society, pp. 26–39.

transition from one status to another. Slavery arose where subsistence was relatively easy to procure, where private property developed, and where human labor had social value. Slaves were recruited from the victims of war, from those who were unable to pay their debts or who voluntarily sold themselves, from criminals whose punishment fell short of death, and from the offspring of slaves. It was, however, only where markets for agricultual products developed and landed estates were managed as business enterprises, and where large supplies of free land were available, that slavery became extensive. "Thus in classic Greece, slavery developed with the growth of intermunicipal markets, and grew strong with the expansion of the colonies on all sides of the Mediterranean. The great city states became not only the chief marts but also the chief breeders of slaves, and slavery finally dominated industry as well. With the advent of Roman sovereignty, slavery received a new lease of life, and became lucrative not only on the Italian mainland, but in the great stretches of subjugated states. As long as the career of conquest and fresh accessions of territory continued, slavery flourished. In Rome the development of slavery on an extended scale did not take place until the later centuries of the Republic, when slavery on the *latifundia* became the dominant form of great business enterprise. In the same way the European immigrants into the new world, whose ancestors had just seen the last vestiges of forced labor disappear at home, no sooner reached American soil than they introduced in all its rigor the ancient system of slavery. Slavery became an important factor in America only when the cultivation of tobacco and later of cotton on a considerable scale for the foreign market made the labor of slave gangs profitable." [1]

211. Serfdom. When population increased and the supply of new land diminished, the economic defects of the reluctant, unskillful, and superficial slave labor became obvious, and landowners found it more profitable to permit laborers to do some work on their own account in order to improve methods of cultivation and secure more willing service. The growth of free industry and commerce in the towns hastened this process. "The slave

[1] Seligman, Principles of Economics, pp. 157–158.

in Rome gradually turns into the *colonus*, just as several centuries later the Anglo-Saxon thegn is replaced by the villein, — the slave by the serf. Serfdom differs from slavery chiefly in that the individual acquires certain personal rights and is attached to the soil. He goes with the land, but cannot be divorced from it. The serf is still bound to work a certain part of his time for the landlord. With the final exhaustion of free land, however, the landlord finds that he can derive more profit by freeing the serf completely and by letting him occupy the land on a fixed rental, in produce or in money. This process is gradual, differing according to the general economic conditions of each country. Ultimately, however, the last trace of serfdom disappears, and the cultivator becomes the hired man or the free tenant farmer."[1] The existence of a numerous servile population, having few legal rights and no political privileges, was largely responsible for the aristocratic organization and spirit of ancient and medieval states.

212. Guilds. The growth of trade and the rise of distinct handicrafts, especially in the towns, were usually accompanied by the formation of guilds or industrial clans, probably for the purpose at first of better safeguarding the rights of the commercial and industrial classes against the feudal lords.[2] These corporations frequently secured charters and in some cities, especially in England, practically controlled the municipal government, citizenship coinciding with membership in the corporation, and the officers of the guild acting also as officers of the town.[3] These organizations were encouraged by the state as long as they were useful, but suppressed when their rigidity and exclusiveness offered a barrier to progressive industrial development.

213. Labor unions and labor legislation. In modern states labor has again formed powerful organizations, or *unions*.[4] At first these were illegal as conspiracies; not until 1824 in England, and later elsewhere, were they legitimized.[5] At present they tend to play a considerable part in politics and will probably come under increasing

[1] Seligman, op. cit., p. 159.
[2] Emerton, Medieval Europe, pp. 520–521.
[3] Cheyney, Industrial and Social History of England, chap. iii.
[4] The American Federation of Labor has more than two million members.
[5] Seager, Introduction to Economics, pp. 388–392.

governmental control.[1] Largely as a result of the endeavor of workmen to help themselves through associated action has come legislation in behalf of workers. Such legislation has assumed three principal forms:[2] (1) dealing with the conditions of employment, especially of women and children, the hours of labor, and the protection of life, limb, and health; (2) dealing with the conditions of remuneration, securing the payment of wages in cash at frequent intervals, and in some states the fixing of a minimum wage; and (3) dealing with the results of employment, especially along the lines of employers' liability, workmen's compensation, and compulsory insurance.[3] The state has encouraged its home industries by granting patents, establishing monopolies, paying bounties, or levying tariffs; has regulated the production and sale of injurious products, such as opium and alcoholic liquors; and has, as a form of taxation, itself assumed a national monopoly over certain products, such as salt, matches, and gunpowder, or, in its municipalities, has taken over the water, light, and transportation systems.[4]

214. Industrial corporations. Probably the chief industrial problem confronting modern states concerns their proper relation to the powerful combinations of capital assembled in industrial corporations.[5] In their ability to create monopoly or to disregard public welfare, and especially in their sinister influence upon politics,[6] these form the most powerful organizations within the state and one of the greatest dangers to modern democracies.[7] The fact that corporations and political parties are each able to furnish what the other most needs, — corporations desiring favorable legislation, exemption from taxation, special privileges and franchises, and political parties desiring campaign contributions and financial rewards for their leaders, — makes the connection between business and politics close because mutually profitable. Besides, the difficulty

[1] Commons, Trade Unionism and Labor Problems.

[2] Jevons, The State in Relation to Labor.

[3] See also Seligman, Principles of Economics, pp. 430–434; Ely, Outlines of Economics, chap. xxiii.

[4] Bemis, ed. Municipal Monopolies.

[5] Ely, Monopolies and Trusts.

[6] Goodnow, Politics and Administration, pp. 251–254.

[7] Jenks, The Trust Problem.

of fixing responsibility, both in corporations and in political parties, because of the nature of their organization offers constant temptation for dishonest coöperation. The statement that "business is politics, and politics business" contains a very important element of truth. Laws aiming to secure publicity of corporation finances, to prevent overcapitalization, to destroy undesirable monopolies and unfair discriminations, and to exclude corporations from political activity are among the more important attempts at trust regulation on the part of modern states.[1] In industries that are naturally monopolistic, government ownership is the logical result in case regulation fails to secure public welfare.

215. Forms of state regulation of industry and trade. In the regulation of industry and trade, public authority has acted sometimes through local organizations, as in the case of the tribal village community, the Greek and Italian city states, and the medieval manors and guilds; sometimes through wider national organizations, as in the case of the Roman Empire or the legislatures of modern states. The attitude of the state has sometimes been paternal, taking upon itself a detailed control of industrial life. Such was the attitude of ancient Greece and Rome, of the European states of the sixteenth, seventeenth, and early eighteenth centuries under the mercantile system,[2] and such a system the theory of socialism recommends to-day. Sometimes states have adopted a *laissez-faire* attitude,[3] as during the latter eighteenth and early nineteenth centuries, leaving business relations as far as possible to individuals without interference. The obvious evils of extreme individualism have caused a reaction, during the past fifty years, toward increased state control; and modern states in general adopt the policy of regulation, leaving industry ordinarily in private or corporate hands, but regulating such of its phases as are affected with a public interest, and taking over under state control such enterprises as it is not desirable to trust to private initiative.

[1] Baker, Monopolies and the People, Part II.

[2] Day, History of Commerce, chap. xviii; Cambridge Modern History, Vol. III, chap. xxii.

[3] Cheyney, Industrial and Social History of England, chap. viii; Willoughby, Nature of the State, pp. 320–337.

216. Economic classes. Throughout the entire course of state evolution, classes based on occupations or on economic interests have been of importance in political affairs. In the Oriental empires differences in occupation gave rise to castes. In Athens, at the time of Solon, factional strife broke out between the wealthy landowners of the plain, the merchants of the shore, and the shepherds and small farmers of the mountain.[1] The three estates of the Middle Ages were based upon the fundamental distinctions between the clergy, the nobility, and the serfs. In modern states political parties divide on economic issues, separate labor parties are found in several states, and socialism is an international political party organized on the basis of an economic class struggle.

IV. The State and the Military Organizations

217. Force in political evolution. In addition to kinship and religion and to the coöperation of men in industrial activities in forming affiliated groups from which the state could be formed, organized physical force, either in repressing internal disobedience and dissension or in waging offensive or defensive warfare, has been a potent force in state origin. Political development demanded a closer and more powerful organization than the old clans and tribes permitted. When Egypt, Assyria, and Phœnicia showed their strength, the Hebrew tribes cried, "Nay, but we will have a king over us; that we may also be like all the nations; and that our king may judge us, and go out before us and fight our battles."[2] While the institutions based on kinship and religion — the family and the church — have been separated from the state, subordinated to it, and weakened in authority and in scope of function, the organizations based on force — the army, navy, militia and police systems — remain entirely under the control of the state and still perform duties of prime political importance. "We cannot, without ignoring the facts of history, overlook the part hitherto played by armed force in the development of the modern state. Every advance of civilization over barbarism and of public order over anarchy has been won by the better organization of force, and its

[1] Gilbert, Greek Constitutional Antiquities, pp. 142–143.

[2] 1 Samuel viii, 19–20.

consecration to higher purposes. The better organization of force has meant the creation of armies and navies, and their more perfect control by civil authority. The consecration of force to higher purposes has resulted in the suppression of savagery, barbarism, piracy, and despotism. To condemn armies and navies, as mere survivals of an outgrown past, while dangers to civilization still exist, would be to counsel exposure to the perils of recrudescent barbarism; for it is by no means certain that respect for law has yet become so profound and so universal that a defenceless people may count upon the security of its rights and liberties." [1]

218. Subordination of force to civil authority. However, physical force has been brought increasingly under the regulation and direction of the political organization. "It was a great moment in the evolution of man, when the fighting impulse was redeemed from isolated outbursts of violence and brutality through its organization for tribal protection. Thenceforth, it had a definite social value. When later on it became drilled and disciplined in the person of the trained soldier, and was held in reserve for the socially determined occasion for its exercise, the fighting instinct found a new and highly advantageous direction. And, finally, when this organized power became fully responsible to civil authority, it was able to shelter peace, and made possible the development of the modern state." [2]

219. Diminishing proportion of population engaged in war. The proportion of the entire population engaged in military or semi-military occupations has diminished. In the early states all able-bodied freemen were warriors, and sometimes even slaves were used in war. The army was the mobilized community and the community was the army at rest.[3] Political rights were limited to those who performed military services; the war leader was the civil ruler; primitive military gatherings were also political gatherings; the assembly grew out of the military organization.[4]

[1] Hill, World Organization and the Modern State, pp. 154–155.

[2] Ibid. pp. 152–153.

[3] Spencer, Principles of Sociology, Vol. I, pp. 545–552.

[4] For example, the *comitia centuriata* at Rome. See Abbott, Roman Political Institutions, pp. 20–21, 26–27; and the Teutonic *Gefolge*. See Jenks, History of Politics, pp. 75–76, 88–89.

220. Property and the army. The early division of society on the basis of sex into men as fighters and women as workers was considerably modified by the growth of property in slaves, herds, and lands. A considerable number of the male population also became workers and ceased to form a regular part of the military organization. The army tended to coincide with the body of freemen who were also landholders, and, extent of estate being the measure of the owner's ability to bear burdens, a direct connection between the amount of land held and the amount of military aid to be rendered was established. "Thus in Greece under Solon, those whose properties yielded less than a certain revenue were exempt from duty as soldiers, save in emergencies. In Rome, with a view to better adjustment of the relation between means and requirements, there was a periodic 'revision of the register of landed property, which was at the same time the levy-roll.' Throughout the Middle Ages this principle was acted upon by proportioning the numbers of warriors demanded to the sizes of the fiefs; and again, afterwards, by requiring from parishes their respective contingents." [1]

221. Taxation and the army. When land ceased to be the only source of wealth, military obligations were also laid on the growing class of free workers who, however, usually were permitted to compound for service in war by the payment of fines, dues, or taxes.[2] Landowners also often preferred to pay scutage rather than furnish men at arms, and with the sums thus secured the kings of the rising national states were able to maintain permanent military establishments and to increase their power at the expense of the feudal nobility.[3] Industrial growth, by increasing the population from which substitutes could be obtained and by producing the necessary free capital, changed military obligation from personal service to a pecuniary burden and created a class of professional soldiers, the standing armies of modern states.

222. Standing armies. At present, while all men are liable to military service in case of need, and while states where war is imminent give all men military training and support considerable

[1] Spencer, Principles of Sociology, Vol. II, p. 476.
[2] Perris, War and Peace, chaps. v–vi.
[3] Oman, History of the Art of War: The Middle Ages, pp. 367–368.

military establishments, the actual army consists of but a small proportion of the male population; and in states where war is little feared, only a small standing army is maintained and volunteers form the main reliance in case of need. Germany and France are examples of the former type, each maintaining standing armies of over half a million men; England and the United States represent the latter type, although all these states maintain powerful navies.[1]

223. Warfare a public function. On the other hand, the entire organization, maintenance, and control of the military forces are more completely in the hands of the state than formerly. Private warfare, common under feudalism, is not permitted; mercenaries are seldom employed; plunder is no longer a method of attracting or maintaining troops; and the rights and property of noncombatants are generally respected. War has become an organized contest between the public armed forces of states.[2] In like manner, naval forces, at first supplied by seaport towns or by private merchants or companies, are now completely controlled by states, even privateering being forbidden.[3] Peace is now recognized as the normal condition among states, and by international action efforts are being made to reduce armaments, substitute arbitration for warfare, or, if that be impossible, to limit and mitigate the evil effects of combat.[4]

224. Mitigation of the evils of war. "It is agreed that all unnecessary cruelty and injustice are to be eliminated, the rights of noncombatants are to be respected, and those of neutrals safeguarded. For these purposes, rules of action have been adopted by practically all civilized states relating to the opening of hostilities, the laws and customs of war on land, the rights and duties of neutral powers and persons, the treatment of an enemy's merchant vessels at the beginning of hostilities, the transformation of merchant ships into vessels of war, the placing of submarine mines, bombardment of naval forces, adaptation to maritime war of the principles of the Geneva Convention, the restriction of the right of capture in maritime warfare, and a declaration regarding the

[1] Statesman's Year-Book.

[2] Lawrence, Principles of International Law, pp. 415–422.

[3] Declaration of Paris, 1856. See Davis, Elements of International Law, Appendix C.

[4] Holls, Peace Conference at the Hague.

throwing of projectiles and explosives from balloons. These are some of the results of the Hague Conferences, to which are to be added the proposal of an international prize court on the basis of a naval code worked out by the maritime powers in the Conference of London (1909)."[1]

225. Military forces and revolution. Because of their organized strength, military forces have frequently interfered with or overthrown the established governments of states. The phrase "war begat the king" is at least a half truth, since successful war leaders have frequently assumed political power. Cæsar established the Roman Empire with the aid of his army, and the army later made and unmade Roman emperors, in some cases selling the office to the highest bidder.[2] The Seljuk Turks, imported as mercenary soldiers by the caliph at Bagdad, became the rulers of a large part of the Mohammedan world.[3] Cromwell in England and Napoleon in France owed their positions to the support of their armies. As late as 1851 Louis Napoleon made himself emperor of the French by winning over the army, and even in the United States every war of any importance elevated its hero to the presidency.[4]

226. Military power and despotism. The historical connection of military power with despotism has caused most democratic states to dread standing armies. This general theory was voiced recently in the American Senate as follows: "The fighting force of a republic is the great body of the people, and not a paid soldiery called 'regulars.' . . . You must rely upon the people, not upon an army. An army is a vain delusion. It may to-day be for you; it may be against you to-morrow."[5] France, which has had considerable experience with the influence of military institutions upon government, excludes from the suffrage by organic law soldiers and sailors on duty or at their posts. A strong navy, being less centralized and aristocratic in its organization, and by the nature of its services more removed from direct contact with home politics,

[1] Hill, World Organization and the Modern State, p. 168.

[2] Pelham, Outlines of Roman History, Bk. VI, chap. ii.

[3] Gibbon, Decline and Fall of the Roman Empire, chap. lvii.

[4] For example, Washington, Jackson, Taylor, Grant, and Roosevelt.

[5] Speech by Senator Teller, in Congressional Record, Vol. XXXIV, Part II, pp. 1024 ff.

is usually considered less dangerous to democratic institutions than an army.[1] Navies can very rarely be used to oppress the people of a state as armies frequently have done; and naval heroes are less likely to become dictators than military conquerors. The growth of freedom in Athens, Holland, England, and the United States may be partially explained by their dependence upon naval rather than military forces. Sparta, Rome, France, and Germany, with their centralized and bureaucratic systems, represent the military types.

227. Force in internal affairs. The maintenance of internal order and security, at first largely accomplished through family or fraternal groups and under religious authority, has likewise become increasingly a state function. The authority of the family, the influence of private associations, and the pressure of public opinion accomplish much in this direction,[2] but in last analysis public order is maintained by the organized system of courts and police, supported in case of need by the armed military forces of the state. The state has gradually taken from private hands the accusation, trial, and punishment of crimes against person and property, the settlement of civil disputes, and in some parts of the world is even enforcing arbitration between employers and employed.[3] The evolution of this process has been practically uniform. "In primitive life disputes of all sorts are settled by private arrangement of the parties concerned, peaceably or violently, according to circumstances or the nature of the case. Then the state from motives of public policy assumes the office of voluntary umpire; at a later stage it enforces with the power of the state its decisions, and finally it either compels disputants to refer their grievances to its courts, or it assumes the responsibility of personally investigating grievances and prosecuting and punishing offenders."[4] Similarly, many tendencies point at present to the weakening of religious authority as a means of social control, and this places additional responsibility upon the state as the upholder of public order.

[1] Mahan, Influence of Sea Power upon History, chap. i.

[2] Ross, Social Control.

[3] Macrosty, "State Arbitration in Australasia," in Political Science Quarterly, Vol. XVIII.

[4] Dealey, Development of the State, p. 86.

V. Voluntary Political Organizations

228. Political organizations outside the government. Numerous forms of association have sprung up within the state, distinct from its government, for the direct purpose of exercising or influencing political power.[1] Sometimes these have been considered dangerous by the state and have been stamped out by its authority; sometimes they have succeeded in carrying out their plans and have then disappeared; sometimes they have remained as permanent political forces and have been incorporated more or less perfectly into the governmental organization. In states where liberty is imperfectly developed and where private political initiative is considered dangerous, such associations take the form of secret societies and cabals. Political agitation in England during the seventeenth century, in France during the Revolution, and in Russia to-day is carried on in that fashion. In more advanced states, secret political organizations are resorted to by revolutionists or by criminals, and are usually composed of the lawless and violent members of society. The agitation of the anarchists in Europe and America is carried on through such organizations; and the Ku-Klux Klan, established in some parts of the South after the Civil War, was a secret society that aimed to prevent the exercise of political rights by the freedmen.[2] Temporary political authority is exercised sometimes by mobs, which condemn and execute accused persons under "lynch law."[3] Of somewhat different nature is the establishment in frontier communities of "vigilance committees" for the purpose of suppressing lawlessness in the absence of any properly constituted government.[4]

229. Political clubs. Clubs that combine political and social functions have been a favorite form of private political organization. These are usually exclusive, but not secret. The Rota was

[1] Sidgwick, Elements of Politics, chap. xxviii; Giddings, Principles of Sociology, pp. 180–196.

[2] Dunning, Reconstruction (American Nation, Vol. XXII), chaps. xv–xvii.

[3] Cutler, Lynch Law.

[4] For example, at San Francisco, in 1851. See Garrison, Westward Extension (American Nation, Vol. XVII), pp. 315–317; Hittell, California, Vol. II, pp. 724–726.

established at London in 1659; the Club Politique, at Paris in 1782. Tammany Hall was originally an association of Democrats whose object was to improve the policy of their party;[1] Union League Clubs were formed in many of the larger American cities during the Civil War; in more recent years, organizations for purposes of civil service and municipal reforms have been numerous.[2] Political clubs still play a conspicuous part in English politics, the Primrose League being probably the most highly organized and most influential of these ancillary political organizations.[3] There are also, in all states, innumerable associations created to promote particular interests, protect certain classes, or secure special legislation. Some are permanently organized; others are temporary in nature.

230. Political parties. The most important voluntary political associations, and the only ones that have become officially identified with the government, are political parties. With the rise of popular government, some form of organization became necessary in order that large bodies of men might formulate and put into effect their will. Crude beginnings, in the form of factions, were found as soon as any share of governing power was extended to a considerable number of the state's population.[4] Machiavelli foreshadowed modern political thinking in pointing out that party contests were not dangerous to the state, but rather furnished an outlet to the ambitions of the people, brought out the ability of their leaders, and created institutions and laws.[5] Sometimes these divisions were formed on racial or class lines; sometimes they followed cleavages of religious or economic interests; sometimes they foreshadowed real parties by dividing on issues of political policy, the chief contest being that between the established monarchs and the growing democratic spirit. At first these contests were violent and revolutionary; later by means of elections they

[1] Myers, Tammany Hall.

[2] For example, the National Municipal League, the American Civic Association, the National Civil Service Reform League, and the Short Ballot Organization. See Munro, Government of American Cities, pp. 360–377.

[3] Lowell, Government of England, Vol. II, chap. xxxi.

[4] For example, in Athens, Rome, and the medieval Italian cities.

[5] Discourses, I, 34.

became more peaceful and orderly.[1] The state, regulating nominations, elections, campaign methods and expenditures, and other party activities, recognized these organizations as legal parts of the political systems;[2] and in modern states, especially in England and in the United States, they furnish the fundamental motive force of government.

231. Present political groupings. While minor parties are often formed on subordinate issues, and while party groupings in European states are still numerous,[3] the general tendency in most democratic states is toward an alignment of population into two broad divisions, conservatives and progressives, with which divisions political parties will probably increasingly coincide. The socialists, representing an extreme radical movement, have even become an international party.[4] In England political parties are thoroughly incorporated into the constitutional system, the present form of government growing up on the basis of party contests.[5] In the United States political parties still stand largely outside the legal organization of the state, their machinery and leadership being in the main irresponsible to law.[6] In both England and the United States, however, the political parties have become so thoroughly a part of the actual governmental system that the differences in policy on which the parties originally separated have largely disappeared.[7] In fact, issues have frequently been exchanged, and the real distinction is often between the party in power which tends to be conservative and the party out of power which tends to be radical.[8] Both parties are interested chiefly in securing

[1] Jenks, History of Politics, pp. 136–138; Lowell, Government of England, Vol. I, pp. 435–442.

[2] Beard, American Government and Politics, pp. 141–144, 672–705.

[3] Lowell, Governments and Parties in Continental Europe, Vol. I, pp. 69–136; Vol. II, pp. 8–69, 144–161.

[4] Spargo and Arner, Elements of Socialism, Part IV; Kirkup, History of Socialism.

[5] Lowell, Government of England, Vol. I, pp. 442–444.

[6] Goodnow, Politics and Administration, chaps. vii–ix; Beard, American Government and Politics, pp. 99–103.

[7] Ford, Rise and Growth of American Politics, chap. xxv; Lowell, op. cit., Vol. II, chap. xxxvii.

[8] Jenks, Principles of Politics, pp. 70–71; Macy, Party Organization and Machinery, chap. xviii.

control of the machinery of government, and no essential change in the organization or the activities of the state is expected, regardless of the party in power. In Europe revolutionary parties, aiming at fundamental changes in the existing systems, may still be found;[1] and deep lines of cleavage based upon race, religion, sharp historical conflicts, and economic and social inequalities prevent the formation of a public opinion sufficiently homogeneous for the proper working of party government.[2] Popular government, indeed, often magnifies rather than heals such divergences.[3]

[1] For example, the Irreconcilables in France, the Republicans in Spain, the Clericals in Italy, and the Poles in Austria. See Lowell, Governments and Parties in Continental Europe, Vol. I, pp. 102–105, 205–206; Vol. II, pp. 120–122.

[2] Lowell, Public Opinion and Popular Government, chap. iii.

[3] The Irish demand for home rule increased markedly after each extension of the suffrage, and race conflicts in Austria-Hungary were accentuated by the introduction of representative institutions.

CHAPTER VI

THE COMPOSITION OF THE STATE

I. Elements affecting the Composition of the State

232. Physical elements of the state. The physical elements of the state are population and territory. A certain number of individuals occupying a certain part of the earth's surface are the first requisites for state existence. At any given time, then, in the process of social evolution, the politically organized population of the earth will be found to be divided into a greater or less number of organized communities, each having its own government, law, and sovereign authority. In the same way, the politically organized area of the earth will be found to be divided into a greater or less number of territorial units, separated one from the other by natural or artificial political boundaries. Each organized community of individuals will coincide with a territorial unit, and the result will be a number of states of varying extent and internal composition.[1]

233. The composition of the state. Obviously, one of the first problems in political evolution was concerned with the composition, or fundamental make-up, of the state. Who shall constitute a state? What shall be its numbers in population and its size in territory?[2] By what bonds shall these individuals be combined into a political unity and by what distinctions or barriers separated from those adjoining them? During a large part of human history unconscious evolution determined the answers to these questions, mankind being largely at the mercy of the physical and social environment. Later, men realized the problem and attempted its solution in various ways, sometimes by opposing, sometimes by directing, the action of natural influences. Large states and

[1] Semple, Influences of Geographic Environment, chap. iii.
[2] Garner, Introduction to Political Science, pp. 66–78.

small states, loose-jointed and compactly organized states, states held together by various bonds of union, have existed in the past, numerous influences determining their make-up,[1] and changing conditions compelling frequent readjustments.

234. Elements affecting the composition of the state. Among the elements that have affected the composition of the state, the following may be mentioned as of prime importance. Some have chiefly influenced the numbers of the state's population; others, the size of its territory. Over some of them man has but little control; others are the direct results of his efforts.

CONFIGURATION OF THE EARTH'S SURFACE

Nature has divided the earth into a number of geographic units, separated by mountain walls, by water barriers, by deserts and swamps.[2] Within these natural frontiers lie river valleys, mountain valleys, plains, plateaus, and islands.[3] These units differ in size and shape, in perfection of natural boundaries, and in remoteness from neighboring units.[4] Other things being equal, states tend to coincide with natural geographic units, the direction of political expansion following lines of least resistance.[5] Certain parts of the earth, Greece and Switzerland, for example, have been the homes of small, compact states during practically all human history. Other areas, such as the Russian plain or the valleys of the Euphrates and the Mississippi, seem destined to be the seats of extended empires. Numerous other elements, to be considered later, interfere with the influence of these geographic features, states sometimes being unable to fill out their natural boundaries, sometimes being able to unite a number of naturally distinct areas. In many cases, however, geographic features have been decisive, and the skill of even the most advanced modern nations is baffled by the limitations placed upon them by geographic conditions.[6]

[1] Hobhouse, Social Evolution and Political Theory, chap. vi.
[2] Semple, op. cit., chaps. vii, xv.
[3] Ibid. chap. vi.
[4] Ibid. pp. 10–31.
[5] Ibid. chap. iv.
[6] Hinsdale, How to Study and Teach History, chap. x, pp. 13–15; Keltie, Applied Geography.

235. Examples in ancient world. A few examples from the history of political development will illustrate the influence of geographic configuration upon the form and extent of the state, due allowance being made, of course, for the fact that, in each case, other influences than physical features were partially responsible. The ancient empires of Egypt, Babylon, India, and China grew up in the natural units created by fertile semitropical river valleys.[1] In the New World the table-lands of Mexico and Peru were the seats of the most advanced empires.[2] Phœnicia, limited to a narrow coastal strip by the surrounding desert, could expand only by Mediterranean colonization.[3] Greece is divided by mountains and the sea into numerous valleys and islands, easily defended, yet, because of the sea, not isolated. These conditions led to the preservation of small and distinct political units and to colonization. Facing east,[4] Greece came first into contact with the more advanced peoples of the Orient and was compelled to wage defensive wars. This checked expansion and compelled more concentrated internal development, which, in turn, intensified rivalries among the various units and prevented consolidation. As a result, Greece was united only when conquered by some external power, such as Macedon and Rome.[5] Italy is better adapted for internal unity than Greece, and the absence of harbors and islands offers fewer advantages for external activity. Hence the energy of the Romans was kept at home until Italy under their leadership became a single state. Facing the west, Rome had little contact with eastern nations until her own institutions were well established. On the contrary, coming first into relations with the inferior peoples of Gaul, Spain, and Africa, she naturally embarked on that career of conquest and expansion that created the Empire.[6]

[1] Maspero, Dawn of Civilization, chap. i.

[2] Buckle, History of Civilization in England, Vol. I, pp. 29–73.

[3] Semple, Influences of Geographic Environment, pp. 12, 130, 197, 257, 268–269, 283, 311.

[4] The western coast of Greece is mountainous; most of the good harbors are on the eastern coast; and the numerous islands lying east of Greece serve as stepping stones to Asia Minor.

[5] Curtius, History of Greece, Vol. I, pp. 9–25; West, Ancient History, pp. 76–81.

[6] Mommsen, History of Rome, Vol. I, chaps. i–ii; West, op. cit., pp. 249–251, 254–256.

236. Examples in modern world. The geographic unity of the British Isles is weakened by the mountains that differentiate Wales and Scotland, and by the body of water that cuts off Ireland from the larger island; yet it has been sufficient to create Great Britain by their union and to separate the interests of the island group from those of the continent. England's insular position[1] and water frontiers prevented invasion after the Norman Conquest, even in the face of the power of Spain in the sixteenth century and of France under Napoleon, and compelled the establishment of naval power and the formation of colonial empire when growing population and economic interests demanded expansion.[2] The Appalachian Mountains for a long time limited the English colonies in America to the seaboard, while the river valleys of the St. Lawrence and the Mississippi led the French into the interior.[3] As both expanded, the final clash came naturally around the head waters of the river system that joins the two areas. The expansion of the United States to the Mississippi after the Revolutionary War necessitated the acquisition of the other half of its valley and the control of its mouth, which followed in the Louisiana Purchase.[4] The final growth of the United States to a continental power was geographically determined.[5]

237. Geographic unity of modern states. Conquerors and statesmen have frequently ignored geographic limitations, with the result that their work has often been impermanent. Alexander's wide extended empire did not survive his death; and the separation of the Roman Empire into its eastern and western divisions followed the triple geographic barrier formed by the Adriatic, the Apennines, and the mountains of western Greece. In the valleys of the Alps, Switzerland has maintained its local life for more than a thousand years, little disturbed by the powerful states surrounding it.[6] The recent separation of Norway and Sweden (1905) bears

[1] On the influence of islands on ethnic and political development, see Semple, op. cit., chap. xiii.

[2] Mackinder, Britain and the British Seas, chaps. i–ii, xi, xix; George, Relations of Geography and History, chap. x.

[3] Semple, American History and its Geographic Conditions, chaps. i–iv.

[4] Ibid. chaps. v–vi. [5] Ibid. chap. xii.

[6] On the influence of mountain environment, see Semple, Influences of Geographic Environment, chap. xvi.

witness to the impossibility of disregarding physical influences.[1] So much importance in modern politics is attached to natural frontiers that states make every effort to secure or maintain them. For several centuries France has looked to the Rhine as her natural limit, and the debatable valley of that river has been the battle-ground of Europe.[2] The states of Europe now coincide fairly closely with the geographic divisions of that continent.[3] Where discrepancies exist, they are the results of other important factors in the historical development of the states concerned.

ETHNIC SIMILARITIES

Just as the physical features of the earth's surface furnish a natural basis for the state's territory, so ethnic groupings of individuals furnish a natural basis for the state's population. Groups of individuals, held together by feelings of similarity or by common interests, develop that solidarity and that consciousness of political unity that form the subjective phase of the state.[4] The similarities that create the sentiment of unity among men are sometimes physical, sometimes psychical. Race and kinship are examples of the former; nationality, based on common language, religion, traditions, or past political history, is an example of the latter.[5]

238. Principles of internal unity. At different periods of state development various principles of internal unity have served as the chief bonds of cohesion among the population. Kinship and religion supported the ancient patriarchal theocracies. These bonds were powerful, but inelastic, and their rules became crystallized into rigid customs that prevented progress. Authority, based upon force and conquest, upheld the military despotisms. Empires built upon force were often enlarged by conquest and annexation without any common ethnic tie, and therefore soon broke up along the

[1] The union of these states was the work of the Congress of Vienna (1815), which notoriously disregarded national and geographic units.

[2] Robinson and Beard, Development of Modern Europe, Vol. I, chap. ii.

[3] Freeman, Historical Geography of Europe; Burgess, Political Science and Constitutional Law, Vol. I, pp. 5–29.

[4] Giddings, Principles of Sociology, pp. 17–20, 169–170; Willoughby, Nature of the State, pp. 119–123.

[5] See below, sections 252–262.

lines of old geographic and ethnic cleavage. In the Middle Ages, personal or military allegiance served as the bond of feudal organization, but this limited the state to small areas and confused political authority with religious, economic, and individual interests.[1] Modern states emphasize nationality, citizenship, and patriotism, the most satisfactory bases for political solidarity yet discovered.[2]

239. Ethnic and geographic unity. While ethnic units of population tend to coincide with geographic units of territory, ethnic differences often being the result of the different environments created by physical conditions, the correspondence is seldom complete. Most states contain populations of diverse ethnic composition, and some populations of considerable similarity are included within several states.[3] The laws of the territorial expansion of peoples and of states correspond in general. There are, however, several important exceptions. Ethnic expansion, depending upon natural increase or the gradual assimilation of diverse peoples, is slow and steady, while the political frontiers of a state may be widely extended by conquest far beyond its ethnic boundaries, or may be narrowed after unsuccessful war, with the loss to the state of a part of its population. Besides, the political frontier of a state fixes the territorial limits of its governing authority at a definite line beyond which, except by war, state action cannot pass. For the population of a state, however, the political boundary is an imaginary line, and the pressure of population or the economic opportunities across the border frequently lead, in the absence of legal prohibitions, to an overflow of population into unoccupied territory or into the territory of a neighboring state. This population, if it retains its ethnic ties with the home land, constantly urges the extension of the territorial domain of its state to include these new areas. The history of the United States illustrates both these processes. The slow western advance of enterprising settlers constantly beckoned the flag to follow, and territorial expansion absorbed, in great masses, at irregular intervals, what the steady protrusion of the ethnic

[1] Jenks, History of Politics, pp. 73–83; Dunning, Political Theories: Ancient and Medieval, chap. v.

[2] Shaw, Political Problems of American Development, chap. ii.

[3] Burgess, Political Science and Constitutional Law, Vol. I, pp. 1–4.

frontier had gradually won.[1] Accordingly, the following important law may be laid down. "The more closely the territorial growth of a state keeps pace with that of its people, and the more nearly the political area coincides with the ethnic, the greater is the strength and stability of the state."[2]

240. Ethnic solidarity. In ancient times states jealously safeguarded their racial purity; until comparatively recent times states insisted on religious unity; even to-day states like Germany and Russia try forcibly to assimilate their diverse nationalities.[3] The general tendencies of modern times make it difficult for states to create or maintain a pure, distinct, and uniform ethnic type. At present, physical distinctions among peoples are breaking down before the ease of travel, causing emigrations and intermarriage on a large scale; and psychical distinctions are disappearing before the spread of a cosmopolitan civilization, caused by the general diffusion of intelligence and the breaking down of national prejudices. At the same time, within the state, class divisions are hard to prevent and difficult to harmonize, and constantly threaten the internal ethnic solidarity of the state.

241. Population groupings of political significance. During the course of political evolution, numerous groupings of population having political significance have arisen within the state.[4] Such ethnic divisions are responsible for some of the most difficult problems of past and present politics. The political and social status of the negroes in the United States,[5] the position of the English in India,[6] and the situation of the Turks in Europe[7] are illustrations of present uncertainties caused by race. Diverse nationalities within the state are scarcely less troublesome. The opposition of Irish to English in Great Britain, the complicated national

[1] Garrison, Westward Extension (American Nation, Vol. XVII).

[2] Semple, Influences of Geographic Environment, pp. 190–192.

[3] For example, the attitude of Germany in Alsace-Lorraine and of Russia in Finland. See Lowell, Governments and Parties in Continental Europe, Vol. I, pp. 372–376; Hazen, Europe since 1815, pp. 672–680.

[4] Cooley, Social Organization, Part IV.

[5] Ellwood, Sociology and Modern Social Problems, chap. x; Stone, Studies in the American Race Problem.

[6] Caldecott and Kirkpatrick, English Colonization and Empire, chap. v.

[7] Robinson and Beard, Development of Modern Europe, Vol. II, chap. xxix.

hostilities in Switzerland, Germany, and Austria-Hungary,[1] and the question of foreign immigration to the United States[2] immediately suggest themselves. Unity within the state has been prevented in certain parts of the world by a division of population into castes, resulting mainly from differences in race, from differences due to immigration or conquest, or from the gradual differentiation of social and economic functions in a formerly homogeneous population. The distinction between freemen and slaves was even more universal. In the Middle Ages, population was separated into well-defined estates, consisting of the clergy, the nobility, and the agricultural and industrial "third estate."[3] The nobility, the middle class, and the peasantry are fairly distinct in modern European states, and the capitalistic, laboring, and professional classes are differentiated even in democracies.[4] A further distinction in all modern states is made between citizens and aliens. The make-up of the state, with reference both to its external extent and to its internal composition, is affected by all such divisions within its population.

IMPROVEMENTS IN PRODUCTION, TRANSPORTATION, AND COMMUNICATION

While the geographic divisions of the earth's surface and the ethnic groupings of its population may be considered the underlying natural factors in determining the composition of states, a number of secondary influences, resulting from the activities of men themselves, have consciously or unconsciously modified the primary political groups, and have expanded or contracted the size of the state's territory or the numbers of its inhabitants. Among these factors may be mentioned improvements in the production of food or marketable commodities, in the transportation of persons and things, and in the transmission of intelligence. All of these tend, in general, to increase the extent and population of the state. An

[1] Gumplowicz, Allgemeines Staatsrecht, pp. 136–156.

[2] Hall, Immigration, Part II; Shaw, Political Problems of American Development, chap. iii.

[3] Bluntschli, Theory of the State, Bk. II, chaps. viii–xv.

[4] Ibid. chaps. xvii–xviii; Bryce, American Commonwealth, Vol. II, chap. lxxxi; Lowell, Government of England, Vol. II, chap. lxvi.

increased food supply enables a given area to support a larger population.[1] It also encourages expansion by creating a surplus population eager for external activity and by freeing the military class from the necessity of furnishing their own food supply. Increased production of other commodities leads to expansion through external commercial relations, which diminish ethnic differences, and through the need for markets, which create colonies and empires.[2] Improvements in means of transportation and communication diminish the importance of geographic barriers and break down ethnic distinctions, thereby encouraging the formation of larger political units. The engineering skill that bridges rivers, tunnels mountains, and crosses oceans weakens the influence of natural boundaries. Rapid overland transportation, by means of steam and electricity, and speedy communication, by means of cable, telegraph, telephone, and postal service, reduce the former importance of distance and enable a people to maintain their political unity over large areas.[3]

242. Importance of communication and transportation. Not only do these improvements, by conquering nature, break down the isolation and diversity among earlier geographic and ethnic units, but, because of the larger and denser populations and the complexity of their social relations, they demand a more elaborate political organization.[4] They also make possible the practical and successful working of government over large areas. In early times remote sections of extensive empires always tended to revolt, because the difficulties of transportation and communication prevented both assimilation and vigorous administrative control. Expansion sacrificed individual welfare to military expediency and developed a mechanical and despotic structure without organic unity.[5] In the political thinking of the Greeks, before satisfactory means of communication were evolved, effective government was considered possible only over small areas. The number of people could not exceed those that could be easily supervised; the state must consist

[1] Seligman, Principles of Economics, pp. 48–51.
[2] Reinsch, Colonial Government, pp. 57–71.
[3] Seligman, op. cit., pp. 45–47.
[4] Dealey, Development of the State, pp. 17–47.
[5] Willoughby, Political Theories of the Ancient World, chap. ii.

of a single community, not of a people. "What commander," says Aristotle, "could marshal so huge a host, or what herald, save with the voice of Stentor?"[1] The magnificent system of post roads, with ferries and bridges, excellent inns, and relays of horses helped to create the Persian Empire of Darius the Great.[2] The building of the Roman roads and the suppression of piracy in the Mediterranean, and the comparatively advanced system of intercourse that followed, aided in the establishment of Roman authority over wide areas.[3] When transportation and communication were interfered with by the barbarian invasions, the feudal states that arose were again small in size.[4] Improvements in the means and methods of navigation led to the discoveries and explorations of the fifteenth and sixteenth centuries, and opened up new areas for political organization and for world commerce.[5] Similarly, insular colonial possessions became an integral and permanent part of the constitutional system of the home state only after advanced methods of ocean navigation and of telegraphic communication made possible effective naval strength, constant commercial intercourse, and close governmental relations.[6] For the purpose of maintaining routes of communication, states are compelled to acquire territory and to interfere in the politics of other peoples. The recent scramble for the acquisition of naval stations, the interest of England in the Suez Canal, and our interest in the Panama Canal and in the stepping stones to the Philippines may serve as illustrations.[7]

243. Communication, transportation, and political unity. At the time of the formation of the American Union many persons doubted the possibility of holding together and governing satisfactorily the thirteen colonies, because of their extent, geographic separation, and sectional differences. Frederick of Prussia, in 1782,

[1] Politics, Bk. VII, chap. iv.

[2] Wheeler, Alexander the Great, pp. 196–197.

[3] Cunningham, Western Civilization: Ancient Times, Bk. III, chaps. ii–iii.

[4] Adams, Civilization during the Middle Ages, chap. ix.

[5] Day, History of Commerce, chaps. ix, xv; Adams, op. cit., chap. xii.

[6] The colonies of Phœnicia and Greece tended to become independent cities; the Venetian colonies were mere trading posts; modern colonial empires begin with the activities of Portugal and Spain in the sixteenth century. See Morris, History of Colonization, Vol. I, pp. 49–126, 166–218, 230–244.

[7] Reinsch, op. cit., pp. 71–78.

told the English ambassador that the United States could not endure, "since a republican government had never been known to exist for any length of time where the territory was not limited and concentered." [1] Later improvements in transportation and communication aided in destroying the separatist spirit of the original colonies and in extending a vigorous administration and a national spirit to the Pacific.[2] In the same way the American statesmen that built up the prevailing theory during the first half of the nineteenth century that the interests and destiny of the United States were forever separate and distinct from Europe [3] did not foresee the inevitable interrelations which later would compel this country to take a prominent place as a world power.[4]

MILITARY AND NAVAL STRENGTH

The extent and internal composition of states have frequently been determined by their military or naval strength. Artificial boundaries have been established by conquest, regardless of natural geographic features, and populations have been forcibly united or separated, regardless of their ethnic affiliations. Other things being equal, the military strength of states corresponds fairly closely to the numbers of their inhabitants, but many conditions modify this general principle. Populations differ in physical vigor and in warlike spirit, in military organization and equipment, in the number of men under arms and the amount of military training, in the strategic position of their territory and the patriotic loyalty of their citizen body, in the ability of their rulers and generals, and in their economic and financial resources for sustaining a war.[5]

244. Military strength in forming a state. Small states, such as Sparta and Prussia, have occupied positions of historical importance out of all proportion to their size, because of their military strength. Other states, such as Rome, Macedon under Alexander, and France

[1] Hart, Formation of the Union, p. 100.

[2] Bogart, Economic History of the United States, chaps. xiv, xxii.

[3] For a number of quotations see Gilman, James Monroe, chap. vii (American Statesmen Series).

[4] Coolidge, United States as a World Power, chap. v; Reinsch, World Politics, Part V; Latané, America as a World Power (American Nation, Vol. XXV), chap. xv.

[5] Bloch, Future of War, trans. by R. C. Long.

under Napoleon, have created world empires by means of military expansion. The establishment of Roman legions for several centuries along the Rhine frontier of the Empire caused the same historical effects that an impassable geographic barrier would have produced, and helps to explain the present separation between the Teutonic and Romance nations, the Protestant and Catholic peoples, the enmity of France and Germany, and the separation of Belgium and Holland. After general European wars the map of the world has been reconstructed by the victorious powers, regardless of the wishes of many of the nations concerned.[1] Gibraltar in Spain and Hongkong in China were forcibly seized by England because of their strategic military and commercial values. Poland was destroyed as a state and arbitrarily partitioned among her more powerful neighbors.[2] The Congress of Vienna united Holland and Belgium and separated Norway and Denmark in opposition to ethnic conditions in each case.[3] The potential military strength of the great powers enable them to-day, without actual warfare, to adjust the boundaries and control the destinies of smaller states,[4] and to partition among themselves the territory of uncivilized or unwarlike peoples.[5] The validity of the Monroe Doctrine rests essentially upon the supremacy of the United States in the western hemisphere and its ability to enforce its demands.

245. Naval strength in forming a state. While military strength enables a state to extend its jurisdiction over contiguous territory, naval strength makes possible the political combination of scattered islands or strips of coast. Certain elements are chiefly involved in the establishment of sea power.[6] The geographical position of a state determines whether its natural expansion should be by land or by water, and whether the extent of its territory

[1] For example, the Peace of Westphalia (1648), the Peace of Utrecht (1713), the Peace of Paris (1763), and the Congress of Vienna (1815).

[2] Cambridge Modern History, Vol. VIII, chap. xvii.

[3] Robinson and Beard, Development of Modern Europe, Vol. I, chap. xvi.

[4] For example, the neutralization by the powers of Belgium and Switzerland, and the recent annexation of Bosnia and Herzegovina by Austria.

[5] For example, the partition of Africa and the doctrine of "sphere of influence." See Moore, International Law Digest, Vol. I, pp. 267–269.

[6] Mahan, Influence of Sea Power upon History, chap. ii; George, Relations of Geography and History, chap. vii.

and its seacoast demands concentration or dispersion of its naval forces.[1] A central location with interior lines of communication has many strategic advantages, as has also proximity to important trade routes.[2] The physical conformation of a state determines its coast line, harbors, and internal waterways; and whether its geographic unity is broken by the sea, as in the case of the British Isles, or by mountains, as in the case of Italy. Length of coast line may be a source of strength or weakness, depending somewhat upon the size of the state's population and its naval strength. The naval strength of a population depends upon its attitude to commerce,[3] colonies, and adventure, upon the number that ordinarily follow the sea, or that are available for naval material. The attitude of the government toward shipping and commerce, and toward its navy, forts, naval stations, and equipment is fundamental. At present the ability to bear the financial burdens involved in the building and maintenance of modern war vessels is essential.[4]

246. Importance of central commercial location. During each successive stage of historical development, some state, having access to the sea, has occupied a central geographic position, has developed a navy, built up commerce and colonial empire, and held a foremost place in the political civilization of its day. In ancient times, when civilization centered around the eastern Mediterranean, the Phœnicians, lying between the great empires of Egypt and Babylon, facing the sea, and unable to expand by land because of their powerful neighbors and the desert, naturally became the commercial, naval, and colonial power.[5] With the shifting of civilization westward, their preëminence passed to the Greeks. When the civilized world included the whole basin of the Mediterranean, Carthage and Rome contested for supremacy.[6] When

[1] Contrast the position of England with her scattered possessions and extensive seacoast, necessitating the dispersion of her navy, with that of Germany with her compact territory and limited seacoast, permitting the concentration of her navy. [2] Brooks Adams, The New Empire, chap. v.

[3] Compare the Spanish scorn of the trader with the English and Dutch respect for the merchant class as one reason for their respective naval histories.

[4] "Burden of Armaments," Cobden Club Essays.

[5] Cunningham, Western Civilization: Ancient Times, Bk. I.

[6] Brooks Adams, op. cit., chap. i.

commerce revived after the Crusades the commercial center had shifted somewhat to the north, and Venice and Genoa were the leading rivals, with the Hanseatic League coming into importance as a secondary center.[1] During the fifteenth century the old routes to the Orient were closed by the Turks, a new route was opened up by circumnavigating Africa, and America was discovered.[2] With the consequent shifting of emphasis from the Mediterranean to the Atlantic, Portugal and Spain, and, later, France, Holland, and England held the leading positions.[3] To-day, with the opening up of the Orient, the growing importance of the Pacific, and the building of the Panama Canal,[4] the United States holds the strategic position.[5] Facing both oceans, and with no dangerous neighbors, her interest in naval rather than military strength is obvious; and her recent entrance into the field of colonial activity is the logical outcome of her past history and of the natural laws of political evolution.[6]

IMPROVEMENTS IN GOVERNMENT

Improvements in the devices and methods of government form another factor that influences the make-up of states and that makes possible effective organization over large areas. With every increase of the population inhabiting a given territory, and with the consequent multiplication of interests among them, comes a growing necessity for a more highly organized government, both to maintain order within and to secure protection from without. Each increase in the size of the state's territory also demands a more elaborate governmental system. In early times government was satisfactory and stable only over small communities. If the area of the state expanded, difficulties were encountered in holding together its parts.[7] The Oriental empires usually left to their

[1] Day, History of Commerce, chaps. x–xii.
[2] Cambridge Modern History, Vol. I, chaps. i–ii.
[3] Day, op. cit., chaps. xix–xxv.
[4] Coolidge, United States as a World Power, chaps. xv–xix.
[5] Mahan, Interest of America in Sea Power, Present and Future; Brigham, Geographic Influences in American History, chap. xi.
[6] Willoughby, Territories and Dependencies of the United States, chap. i; Coolidge, op. cit., chap. vii.
[7] Perris, War and Peace, pp. 64–73.

conquered provinces their own language, religion, government, and customs, merely demanding payment of tribute and aid in war, or expecting the conquered kings to bring presents to the court of their imperial master.[1] Such conglomerate empires easily fell to pieces, chronic rebellions being checked by severe punishments or by wholesale deportation of dissatisfied inhabitants into distant territories. Assyria made some improvement, breaking up the old kingdoms into provinces ruled by appointed officials. These officials, however, were frequently tempted to make themselves independent; and the Persians, under Darius, made further improvements, distributing authority in each province between the *satrap*, who controlled administration, and the commander of the military forces. Besides, a royal secretary, known as the "King's Ear," was expected to keep in touch constantly with the capital, and a royal commissioner, known as the "King's Eye," frequently visited the provinces.[2] This general system of administration, the most effective until Roman times, was adopted later by the Saracen and Turkish empires, and certain of its features appeared, during the attempts to build up empires in the Middle Ages, in the *missi dominici* of Charlemagne,[3] the legates sent out by the pope, and the *baillis* of the French king.[4]

247. One-sided development of ancient governments. While the lack of uniformity and the danger of revolt were largely overcome in the Roman Empire, with its common language, law, and citizenship, it was accomplished only by the establishment of a centralized bureaucratic despotism which, however paternal and kindly, destroyed valuable local differences, crushed individual freedom, and prevented the extension of political privileges to its citizens. Local affairs were referred to the provincial governors; these in turn were appointed and controlled by the emperor, the source of all law and authority.[5] The machinery of government, therefore, lacked popular support and frequently got beyond the control of even the best emperors.[6] Until the establishment of modern constitutional representative systems, no form of government had been

[1] Sayce, Ancient Empires, pp. 247–250.
[2] West, Ancient History, pp. 70–73.
[3] Emerton, Medieval Europe, pp. 7–8.
[4] Ibid. pp. 427–429.
[5] Wilson, The State, sections 199–248.
[6] Dill, Roman Society, pp. 275–281.

devised that satisfactorily adjusted local and national interests, that combined over large areas efficient administration and individual liberty, that steered clear of the dangers of constant revolt on the one hand and of repressive despotism on the other. Greece developed a considerable degree of individual freedom within small districts but was unable to secure national unity; Rome created imperial unity, but at the expense of liberty. In the Middle Ages political organization fluctuated between the local anarchy of feudalism and the despotism of the imperial ideal and the growing monarchies.[1]

248. Value of the federation. Among the governmental devices that have been evolved to remedy these conditions and to give a stable basis for political composition is the federation.[2] States whose nationality or situation was such as to make union desirable, but whose local differences were too great to permit complete amalgamation, or whose strength was too nearly equal to make conquest possible, were able to unite on this basis without entirely sacrificing their political identity.[3] The control of general interests by a central government, leaving questions that differ in different sections to the people of those areas for solution, combines the strength that results from unity with the vitality and progress that result from variety. In foreign affairs a united front may be presented and a consistent policy pursued; at the same time, each internal unit may shape its laws in conformity with local customs and conditions. Switzerland, because of its topography and its geographic location, illustrates such an antagonism between two political policies. Divided by mountains into segregated districts, its national ideal was that of communal independence, each canton possessing a maximum of independence and its people a maximum of individual rights; but a central location in Europe, in the midst of powerful neighbors, compelled union in order to withstand foreign aggression. Hence developed the federation, and the constant compromises between the needs of the union and those of the local units.[4]

[1] Wilson, op. cit., chap. v; Bryce, Holy Roman Empire, chap. vii.

[2] Moore, International Law Digest, Vol. I, pp. 23–25; Hart, Introduction to Federal Government; Le Fur und Posener, Bundesstaat und Staatenbund, pp. 186–317. [3] Garner, Introduction to Political Science, pp. 148–158, 191–197.

[4] Winchester, The Swiss Republic, pp. 123–124, 145–147.

249. Process of forming federations. Federalism has thus been the means of uniting many small states that otherwise would never have peacefully surrendered their independence; while, in the internal organization of the large state formed by their union, the federal system has prevented the rise of a despotic centralized authority and has conserved the political liberty of the people.[1] Federations are usually formed after a gradual process, the component states passing through various degrees of alliance and confederation before the necessary national spirit arises.[2] Examples of such states are the United States, the German Empire, Switzerland, and, considered apart from the British Empire, Canada and Australia. Several states, including Mexico and Brazil, have voluntarily adopted the federal principle, not as a means of union, but for the purpose of adjusting national and local interests; and imperial federation for the British Empire is seriously urged.[3]

250. Representation and local self-government. Even in states formed by gradual expansion or by conquest, where the federal principle of union was not utilized, a system of internal organization has been worked out essentially similar in principle. The devices of representation and local self-government,[4] found in all advanced modern states, secure such a balancing of national and local affairs, such a compromise between authority and freedom, that the extension of political unity over large areas without sacrificing either efficiency in government or the share of the people in political authority is now possible. Other devices of democracy, such as elections, referendums, and political parties, aid in preventing the bureaucratic, despotic methods formerly needed in holding together large areas.

COMMON INTERESTS

A population among whom common interests arise tends to form a state or to act as a unit in governmental policy. Common interests result from a variety of causes. Usually they coincide

[1] For advantages and disadvantages of federal government, see Garner, Introduction to Political Science, pp. 230–234; Gettell, Introduction to Political Science, pp. 186–189. [2] Freeman, History of Federal Government.

[3] Parkin, Imperial Federation; Dilke, Problems of Greater Britain, Part VII.

[4] See below, Chapter VIII, sections 340–383.

with ethnic or geographic divisions and strengthen their unifying influence, but occasionally they cut across these units and sometimes create states of apparently diverse elements. The peoples dwelling around the mouth of the Rhine did not differ in any marked degree from those living in its valley, nor were they separated from their neighbors by any natural barriers. Because of their location, however, they developed an industrial and commercial city life, while the population surrounding them was organized into rural agricultural units. The consequent difference in interests accounts largely for the original existence of the Netherlands as a state, separate from France and Germany.[1] At present the interest of Germany, whose chief industries are located in the Rhine valley, in securing free outlet at its mouth is a constant menace to Holland's political integrity.[2] Sometimes political expediency or the exigencies of international politics compel the union of diverse nationalities or of distinct geographic units, or create a state arbitrarily for some political purpose. The present union of Austria and Hungary is largely a matter of mutual necessity.[3] Turkey owes its survival in Europe to its position on the Bosporus and to the mutual jealousies of the great powers. The Republic of Panama was created because of the interest of the United States in an isthmian canal.[4]

251. Common interests as a disruptive political force. Community of interests may be a disruptive as well as a consolidating influence in politics. When common interests distinguish one part of a state's population in one section of its territory from the remainder, that part or section may attempt to break away and form an independent state. The American colonies revolted from England because their industrial and commercial needs and their principles of government had become radically different from those of the home land.[5] The sectionalization of interests in the North and the South caused the American Civil War and threatened to divide the Union.[6] In most cases interests are so numerous and so

[1] Semple, Influences of Geographic Environment, pp. 15–16, 130, 284, 350–352.
[2] Barker, Modern Germany, pp. 68–85.
[3] Lowell, Governments and Parties in Continental Europe, Vol. II, pp. 119–122; Robinson and Beard, Development of Modern Europe, Vol. II, pp. 123–129.
[4] Latané, America as a World Power (American Nation, Vol. XXV), pp. 215–220.
[5] Johnston, American Political History, Vol. I, chaps. i–ii.
[6] Mace, Method in History, pp. 206–254.

interwoven that they do not coincide with separate peoples or areas, and hence they influence the internal policies rather than the basic composition of states. In world politics, states whose interests conflict in one part of the earth may coincide in another. For example, the present alignment of the great powers in European politics is quite different from that in Oriental affairs.[1] Such a condition makes for world peace. So within the state the sections that differ over one issue often agree upon others. Only a horizontal cleavage that divides the entire population into distinct and hostile classes or a territorial sectionalization of interests is dangerous to political stability.[2]

II. Nationality

252. Elements in nationality. The most powerful single factor in determining the composition of existing states is probably nationality.[3] Further analysis of this principle and of its relation to political life is therefore needed. Nationality is the characteristic of a population speaking the same language,[4] having a common civilization, common customs and traits of character, a common history, tradition, and literature, and common consciousness of rights and wrongs.[5] Common descent and sameness of race have contributed largely to national existence, and were formerly essential. At present, while they are a powerful aid to the formation of nationality and usually accompany it to a certain degree, the formation of national unity is possible even among peoples of diverse descent.[6] In the same way religion was once a most potent element in national unity, but modern religious freedom and toleration have greatly weakened its influence.[7] At present the most

[1] Reinsch, World Politics, Part I, chaps. ii–iii; Part III, chaps. ii–iv.

[2] Lowell, Government of England, Vol. I, pp. 438–439.

[3] Laveleye, Gouvernement dans la démocratie, Bk. II, chap. iii.

[4] Margoliouth, "Language as a Consolidating and Separating Influence," in Spiller, Interracial Problems, pp. 57–62; Giddings, Principles of Sociology, pp. 132–134.

[5] For discussion of the essential marks of a nation, see Willoughby, Nature of the State, pp. 9–12; Garner, Introduction to Political Science, pp. 45–47, and authorities there cited.

[6] Burgess, Political Science and Constitutional Law, Vol. I, p. 2; Lecky, Democracy and Liberty, Vol. I, p. 5.

[7] Bluntschli, Theory of the State, pp. 87–88.

important forces in creating nationality are territorial neighborhood, intercourse, made possible by identity of language and of interests, and a common historic past. Political union advances and political separation retards the development of nationality, which is, therefore, both a cause and a result of state existence.[1] A small compact territory also favors the growth of national spirit. Nationalism first grew in Greece and Italy, protected by mountains and by the sea. In the modern world, England and Japan, with strictly defined boundaries and limited territories, developed an intense nationalism and achieved a strong national organization.

253. Recent recognition of nationality. The prime importance of nationality as a leading principle in the establishment of states is comparatively recent. In a somewhat unconscious fashion nationality has always been an influence in politics. It was the sense of national kinship and the desire for national freedom which inspired the Greeks in their conflict with the Persians, and the Germans in their conflict with the Romans. The division of the Roman world between the Latin and the Greek emperors,[2] and that of Charlemagne's empire into Germany and France, were largely due to national differences. Nationality was not, however, asserted or recognized as a definite political principle.[3] Previous to the French Revolution, when government was vested in kings who considered themselves responsible to God alone, rulers went to war without consulting their subjects and made agreements with other monarchs concerning the distribution, annexation, and division of territory without considering the wishes of those who lived upon it. By

[1] Considerable confusion arises from the fact that publicists do not agree in their usage of the terms "nation" and "nationality." Some use the term "nation" to mean a population of ethnic unity, regardless of its political affiliation; others widen the term to mean a population having also political unity, and identify "nation" and "state." Some use the term "nationality" to signify the principle or characteristic that creates a nation; others distinguish nation and nationality by using the former to mean a population of the same race, language, and traditions, inhabiting the same territory and constituting the larger part of its population, and the latter to mean one of several distinct ethnic groups scattered over an area and forming but a comparatively small part of its population. In this book, "nation" means a population of *ethnic*, but not necessarily of political, unity; "nationality" means the essential and composite *principle* of ethnic unity that creates a nation.

[2] Seeley, Roman Imperialism, pp. 65–95. [3] Bluntschli, op. cit., pp. 97–98.

conquest, negotiation, marriage, or inheritance, realms were united, regardless of differences in the nationality of the peoples thus brought together.[1] In fact, the absolute monarchs of that period sometimes considered a diversity of nationalities desirable. Emperor Francis II of Austria once said to the French ambassador: "My peoples are strangers to one another and yet it is for the better. They never have the same ills at the same time. . . . I have Hungarians in Italy and Italians in Hungary. Each suspects his neighbor; they never understand one another and in fact detest one another. Their antipathies, however, conduce to order, and their mutual hate to the general peace."[2]

254. Present importance of nationality. Toward the end of the eighteenth century the idea that rulers were responsible to the people, that every citizen had a right to share in the expression of the general will, and that laws should represent the interests of the nation roused increasing popular interest in political questions. Clear evidences of the growing national spirit were manifest in the opposition called forth, especially in Spain and Prussia, by Napoleon's arbitrary efforts to remodel Europe.[3] Patriotic orators in Italy and Greece also began to arouse enthusiasm by recalling the past glories of those peoples, and the various nations of Europe became conscious that each had a language and traditions that distinguished it from the others.[4] Napoleon is said to have realized this tendency and to have remarked: "The government which first raises the flag of nationality and becomes its defender will dominate Europe."[5] While the Congress of Vienna in 1815 disregarded this sentiment and divided territory among the victorious allies, regardless of race, nationality, religion, or past historical antecedents,[6] much of their work was impermanent, and the readjustments of the past century have been mainly along national lines. Especially since 1840 the right of nations to express their union in a political form has been appealed to as a practical political

[1] Robinson and Beard, Development of Modern Europe, Vol. I, chaps. ii–iii, v.
[2] De Parieu, Principes de la science politique, p. 304.
[3] Rose, Revolutionary and Napoleonic Era, chap. ix.
[4] Robinson and Beard, op. cit., Vol. I, pp. 355–357.
[5] Laveleye, Gouvernement dans la démocratie, p. 53.
[6] Andrews, Historical Development of Modern Europe, Vol. I, chap. iii.

principle, and the dynastic system which Europe inherited from the Middle Ages has been threatened by national demands.[1]

255. Nationality in modern Europe. Nationality "contributed to the political enfranchisement of Greece, Roumania, Servia, and Bulgaria, and ultimately to the independence of some of them; it brought about the unification of the German and Italian states; it led to the disruption of the unnatural union between Belgium and Holland, and to the rounding out along national lines of the boundaries of various other European states. It is to-day at the basis of some of the largest questions of European politics. It overtops all other questions in the politics of Austria-Hungary where the population is a conglomeration of different races, speaking different languages, having little common sympathy, and each animated by national aspirations of its own.[2] . . . The principle of nationality is at the bottom of the Pan-Germanistic movement, which seeks to unite under a single state organization all the German-speaking populations of western Europe: the German Empire, Alsace, part of Lorraine, most of Switzerland, part of Holland and Schleswig, and part of Austria. It is at the foundation of the Pan-Slav movement which would unite all the Slavs of eastern Europe under a common sceptre: Poles, Slovenians, Moravians, Serbs, Czechs, and Croatians, now found in Prussia, Russia, Austria, Saxony, and Turkey. The same principle would bring together the Scandinavian races: Norwegians, Swedes, and Danes; establish the independence of Finland; secure the autonomy of the Flemish population in Belgium; give home rule to Ireland; and lead to a readjustment of the boundaries between France and Germany and between Italy and Austria."[3]

256. Nationality and political divisions not always coextensive. While the conditions that create the feeling of nationality are similar to those that demand the establishment of a state, and the natural tendency of nationality is to find expression in political unity, the identity of the two sentiments should not be assumed. People may possess a well-defined nationality, yet for other reasons have

[1] Bluntschli, Theory of the State, pp. 98–100.
[2] Gumplowicz, Allgemeines Staatsrecht, pp. 136–156.
[3] Garner, Introduction to Political Science, pp. 50–51.

but little desire for political unity. This was the case for a time in the American colonies after their separation from England,[1] and among the Greeks when waging war against the Persians. On the other hand, political unity is sometimes demanded by peoples who have little ethnic unity, as is the case in Switzerland.[2] Nationality is created by community of race, language, historic traditions, common economic interests, and similar civilization; political unity may be created by political expediency, — the necessity for self-defense or for offensive strength.[3]

257. National lack of political genius. Neither would the teachings of history nor a sound science of government support the principle that each nation should constitute a separate state. Some, such as the Basques in Spain and several of the minor ethnic groups in the Balkan Peninsula, are too few in numbers to maintain the responsibilities of political organization in the modern world. Others, with more numerous populations, have shown little political capacity. "Thus, in the whole of western Europe, the Celtic peoples have served as passive material in the formation of Romance and Teutonic states; the diverse nationalities in southeastern Europe can only maintain a political existence by resting on one another; the justification of the English rule in India rests on the need of the population for a higher guidance. Strictly speaking, only those peoples in which the manly qualities, understanding and courage, predominate are fully capable of creating and maintaining a national state."[4] Many writers maintain that, in the interests of world civilization, nations more skilled in governing are justified in guiding and directing the politically incapable peoples, even against their will, and that it is the duty of civilized nations to assume sovereignty over and force state organization upon backward or uncivilized peoples.[5] The actual result of this process is often the extinction of the backward peoples.

[1] Channing, Students' History of the United States, pp. 236–241.

[2] Wilson, The State, pp. 300–304; Lowell, Governments and Parties in Continental Europe, Vol. II, pp. 180–187.

[3] Willoughby, Nature of the State, pp. 121–122.

[4] Bluntschli, Theory of the State, p. 103. See also Burgess, Political Science and Constitutional Law, Vol. I, Bk. I, chap. iii.

[5] Burgess, op. cit., pp. 46–48; Reinsch, World Politics, pp. 15–22.

258. Several nationalities within a state. Accordingly, while the tendency is toward the organization of states whose boundaries coincide with those of nations, this correspondence is by no means complete. A single state may include within its limits population of several nationalities. The British Empire, the United States, Russia, Austria-Hungary, and Switzerland are examples. If the different nations are intermingled and are not too unlike, assimilation usually follows, the higher and stronger nationality dominating the others, although being itself modified somewhat by them. Thus the Anglo-Saxon population of the United States has gradually assimilated Irish, German, and French elements, and is now dealing with the peoples from southeastern Europe.[1] If, on the other hand, the different nations in the state occupy separate areas, living in masses side by side, assimilation is more difficult. If the dominant nation is decidedly superior and more powerful, it may gradually absorb the others. This was the policy of Rome in building up her empire, and is being carried on by Russia to-day. If no nation within the state is decidedly superior, the different peoples may tend toward political separation. The withdrawal of Lombardy and Venice from Austria, of Belgium from Holland, and the attitude of Ireland toward England illustrate this tendency. If neither assimilation nor political separation be possible, the state may either hold its different peoples together by force, or may abandon the idea of securing national unity, allow each of its nations to retain its own life and civilization, and treat them impartially.[2]

259. Several states within a nationality. Sometimes the limits of the state are narrower than those of the ethnic unit. The Germanic nation includes the greater part of the German Empire and considerable portions of Austria and Switzerland. The population of Central and South America is essentially similar in ethnic origin and language, yet includes many states. In these circumstances two opposing tendencies may be noted. If the citizens have a strong sense of their political unity, and especially if they are separated from the remainder of their nation by geographic barriers or by opposing interests, the state may develop a new and distinct

[1] Hall, Immigration, pp. 36–66, 98–120.
[2] Bluntschli, op. cit., pp. 101–103.

nationality among its inhabitants. Thus, in ancient times, Athenians and Spartans differentiated; and, later, the American nationality became distinct from the British. If, on the other hand, several states are organized within the limits of a nation, but not separated by geographic barriers or by diverse interests, national impulses tend toward union; and, either through federation or through the absorption of the smaller states, the formation of a larger and national state follows. By the former process the United States was formed from the thirteen colonies after independence; by the latter, the German Empire and the Kingdom of Italy were established.[1] In contrast to the disorder and political impotence of the numerous feudal principalities of the Middle Ages, the formation of larger states on the basis of nationality is now seen to have contributed to the best interests of the peoples concerned, to the peace of Europe, and to the civilization of the world.

260. Further national integration in Europe probable. Further integration along national lines seems not unlikely. "The further rounding out of the European states to accord still more nearly with the boundaries which nature has indicated would be in the interest of the advancement of Europe's political civilization and of the preservation of the general peace. It would expel the Turk from Europe; it would put an end to the Russian intrigue in the valley of the Danube; it would give Greece the vigor and power to become a real state; and it would bring the petty states of Switzerland, Denmark, Holland, Luxembourg, Belgium, and Portugal to contribute, in far greater degree, to the political civilization of the world, and receive, in far greater degree, the benefits of that civilization, than their present conditions permit. Even then there would be weak places enough in the boundaries of each national state, but their number would be greatly decreased, and the temptation to invasion which they offer greatly lessened."[2]

261. Efforts to secure national unity. At present, ethnic homogeneity is a powerful force in maintaining political solidarity and stability, and states make vigorous efforts to secure national unity

[1] Garner, Introduction to Political Science, pp. 48, 54–55; Bluntschli, Theory of the State, pp. 100–101.

[2] Burgess, Political Science and Constitutional Law, p. 41.

among their respective populations. Thus Prussia compels the use of the German language among the Poles in the province of Posen; the Russians try to crush out the national spirit of the Finns;[1] and the United States excludes certain classes of immigrants.[2] On the other hand, claiming respect for the rights of nationalities, diverse populations within the state threaten to revolt and set up independent states, or demand the recognition of their local languages, laws, and customs. The proper compromise demanded by considerations of humanity and of public policy is a difficult problem in states containing diverse nationalities.[3] While some institutions peculiar to certain nationalities and well suited to their local conditions may safely be left undisturbed, others affecting the political integrity of the state must be sacrificed. The general tendency toward political integration is unquestionably desirable.

262. Dangers of national unity. Against the obvious advantages of the mononational state in securing solidarity, stability, a vigorous national spirit, and an intense patriotism may be set the danger of narrowness, intolerance, and chauvinism. The presence of foreign elements in a state may keep its people in touch with the civilization of other states and may create a broad and progressive policy.[4] The feeling of nationality may, indeed, prove to be only a temporary element in political evolution, and by no means a permanent and perfect basis for state formation. The advancing enlightenment of the people created that consciousness of their individuality and of their national solidarity which made possible the modern democratic national state. As intelligence increases and sympathy becomes more cosmopolitan, and as economic and cultural influences tend more and more to disregard national and political distinctions, a realization of the unity of mankind and of the advantages of international solidarity may deprive the feeling of nationality of its present force.[5]

[1] Robinson and Beard, Development of Modern Europe, Vol. II, pp. 285–286.

[2] Shaw, Political Problems of American Development, chaps. i–ii.

[3] Lecky, Democracy and Liberty, Vol. I, pp. 391–396; Garner, op. cit., pp. 51–54.

[4] Gumplowicz, Allgemeines Staatsrecht, pp. 115 ff.

[5] Willoughby, Nature of the State, pp. 112–114; Bluntschli, op. cit., pp. 103–108.

III. Citizenship

263. Citizens and aliens in early states. The internal composition of the state is further complicated by a universal distinction between citizens and aliens. Conceptions of the nature of citizenship and of the relative proportions within the state of citizens and aliens have undergone marked changes in the development of political thought and practice. Plato limited citizenship to the select few who devoted themselves exclusively to the service of the state.[1] Any form of business activity was suitable only for slaves and aliens. Aristotle defined a citizen as one who enjoyed political rights, who shared in the function of lawmaker and juror;[2] and he also believed that the working classes were unfit for citizenship. In the sixteenth century Bodin defined a citizen as "a free man who is subject to the sovereign power of another."[3] Slaves, women, children under parental authority, and men engaged in certain occupations were considered unfit for public life. The citizen class was viewed as composed of the heads of families, associated in public affairs; and the population of the state was divided sharply into sovereign and citizens. Within the latter class there might be great diversity of rights and privileges, but all were alike in their subjection to the sovereign.

264. Citizens and aliens in modern states. The present conception of citizenship is still broader. "Citizens are members of the political community to which they belong. They are the people who compose the community and who, in their associated capacity, have established or submitted themselves to the dominion of a government for the promotion of their general welfare and the protection of their individual as well as their collective rights."[4] While the state has, in general, jurisdiction over all persons within its boundaries,[5] and while these persons are distinguished for many important legal purposes from all persons outside its boundaries, yet they are themselves divided into those who are and those who

[1] Laws, VIII, 842, 846.
[2] Politics, Bk. III.
[3] De Republica Libri Sex, Lib. I, cap. vi.
[4] U.S. *vs.* Cruikshank, 92 U.S. 542, 549.
[5] Certain exceptions exist under the principle of "exterritoriality." See Lawrence, Principles of International Law, chap. iii.

are not members of the state. The former, or citizen class, regardless of age, sex, or occupation, are fully subject to the sovereignty of the state and are entitled equally to its protection, although they may be subdivided into those who possess full civil and political rights and those who do not. Aliens are persons, permanently or temporarily resident within the state, who are not members of the state, who may even owe allegiance to some other state, and whose political and civil rights are usually somewhat more restricted than those of the citizen class.[1]

265. Evolution of status of aliens. The rights and privileges of aliens have varied considerably at different periods in political development. In former times the citizen class was narrowly and jealously restricted, and its members alone possessed political privileges and legal rights. The stranger stood apart, sharply discriminated from members of the community in both law and religion. Admission to the citizen class was difficult for an outsider, and aliens were looked upon with suspicion and dislike.[2] In the political thinking of the Greeks, the state consisted of a small group of citizens, supported by a numerous class of slaves and aliens who engaged in manual labor, mercantile pursuits, and mechanical trades. The alien had no legal rights; by leaving his state he surrendered his personal *status* and became a homeless man. In the treaties made between the city states of Greece, the right of asylum played a prominent part, since a person traveling or residing outside his own city needed special protection. Otherwise, being without legal rights, he might even be made a slave. Later, in Greece a class of persons called *proxenoi* were charged with the protection of strangers.[3] In early Rome, political rights pertained to only a part of the population, known as patricians; the plebs were amalgamated into the body of Roman citizens only after a long and bitter struggle. At first the foreigners in Rome possessed no legal rights except those of a captive in war. Later, under the institution of *hospitium*, a Roman, acting as host, could take a stranger

[1] Hershey, Essentials of International Public Law, pp. 261–263 and footnotes.
[2] Hill, World Organization and the Modern State, pp. 83–87.
[3] Phillipson, International Law and Custom of Ancient Greece and Rome, Vol. I, pp. 147–156.

under his protection and extend to him temporarily his own rights as a citizen. Still later, the stranger was allowed a legal right of residence, and was judged under the *jus gentium* by the *praetor peregrinus*. With the extension of Roman authority over Italy, a qualified citizenship, known as the *jus Latii*, was granted to many of the allies, and after a serious revolt practically all the peoples south of the Po were, in B.C. 90, admitted to full citizenship.[1] Under the Empire, Roman citizenship was gradually extended to the provincials, but not until the third century A.D. did resident strangers secure all the rights of Roman citizens.[2] The Teutonic peoples, while noted for their hospitality, viewed law as personal in nature, and extended no legal rights to strangers as against the members of their closely knit tribal groups. While the influence of Rome and of Christianity widened the legal conceptions of the Teutons, the idea that aliens had legal rights which should be respected was recognized slowly and with difficulty. Only a century ago the property of aliens commonly escheated to the state in which they died, or might be partially confiscated.

266. Present status of aliens. The abolition of slavery and serfdom, and the breaking down of social classes within the state, together with the increasing contact of diverse nationalities and the widening scope of friendly international relations, have enormously expanded conceptions of citizenship during the past few centuries. At present, citizenship has been extended to practically all classes within the state, few obstacles are placed in the way of aliens who wish to acquire citizenship, practically the same civil rights are extended to aliens as to citizens, and in some cases, as in several commonwealths of the United States, aliens are permitted to exercise political rights.[3] The right of aliens to hold property is sometimes limited. For example, aliens are not allowed to own British ships, neither may aliens nor foreign corporations hold land in the District of Columbia.[4] Aliens are regularly exempt from military service, but are required to obey the law of the

[1] Dunning, Political Theories: Ancient and Medieval, pp. 106–113.

[2] Walker, History of the Law of Nations, Vol. I, pp. 119–120.

[3] Aliens who have declared their intention to become citizens may vote in Arkansas, Indiana, Kansas, Missouri, Nebraska, South Dakota, Texas, Oregon, and Wisconsin.

[4] Act of March 3, 1887.

land and to pay the usual taxes levied on property. In some states certain classes of aliens are especially discriminated against. This is the case with regard to Jews in Russia and with regard to Chinese in the United States.[1]

267. Sources of citizenship: descent and place of birth. The chief source of citizenship is birth or descent.[2] According to the *jus sanguinis*, the oldest principle of descent, the nationality of children follows that of their parents.[3] This principle of determining allegiance was observed by the ancient states, was incorporated into the Roman law, and was adopted after the fall of Rome by the Teutonic invaders. The growth of feudalism, however, developing a close relationship between man and the land and introducing the idea of territorial sovereignty, gave rise to the principle of *jus soli*, according to which the place of birth determined citizenship. This principle became the law of Europe during the Middle Ages, and was carried into England by the Norman Conquest. Toward the end of the medieval period the revived study of Roman law placed emphasis again upon the *jus sanguinis*, which gradually replaced the *jus soli* and remains to-day the generally accepted principle in the countries of continental Europe, whose jurisprudence is based upon the Roman system.[4] England and the United States, while retaining the *jus soli* for children born of aliens within their territories, apply also the *jus sanguinis* to children born of their own citizens abroad. A mixed system prevails in many states. The inherent contradictions involved in these two principles give rise to frequent conflicts and cases of double nationality, and compel numerous exceptions to the strict application of either principle. They also may leave an individual without any citizenship (the German *heimatlos* or *staatslos*), making him in a sense an international outlaw.[5]

[1] McClain, Constitutional Law in the United States, p. 176.

[2] Cockburn, On Nationality, pp. 6–14; Hershey, Essentials of International Public Law, pp. 237–242.

[3] Of the father, in case of legitimate children; of the mother, in case of illegitimate.

[4] The *jus sanguinis* was given wide currency in Europe through the adoption of the Napoleonic code. See Andreani, La condition des étrangers en France.

[5] For good discussions of citizenship, see Garner, Introduction to Political Science, chap. xi; Moore, International Law Digest, Vol. III, chap. x.

268. Naturalization. Aliens may also be made citizens by formal grant of the state. This method is called naturalization;[1] and the conditions under which citizenship may be thus secured are determined by law in each state, the practices of states differing widely. Certain classes are usually excluded, a period of residence is ordinarily required, and in most cases a formal act of some governmental agent is necessary. Naturalization, in its broadest sense, includes the grant of citizenship, under the laws of the state, in any manner, and covers adoption and marriage, by which children and women often transfer their citizenship, together with many exceptional methods permitted by some states, such as the purchase of real estate,[2] service in the army or navy, employment by the government, long residence, etc. Citizenship is sometimes conferred collectively by public law upon large numbers of persons.[3] Of such nature were the treaties and the acts of Congress granting citizenship to certain Indian tribes, the treaties and acts by which the inhabitants of territory acquired by purchase or conquest were granted citizenship,[4] and the treaties by which the independence of new states, formed by revolution, was acknowledged and a new citizenship established.[5]

269. Status of naturalized citizens. In most states naturalized citizens have practically the same rights as natural-born citizens. The only distinction in the United States is the constitutional provision that limits the offices of President and Vice President to natural-born citizens. Several states, France for example, distinguish between "grand" and "ordinary" naturalization, the former, more elaborate in its requirements, alone placing aliens on terms of political equality with citizens of native birth.

[1] Van Dyne, On Naturalization.

[2] Brazil, Mexico, and Peru consider the purchase of real estate or residence for a term of years as *ipso facto* evidence of naturalization.

[3] Van Dyne, op. cit., chap. iv.

[4] In some cases treaties permit the inhabitants of ceded territory to retain their old allegiance if they so desire. Examples are the treaties of peace between the United States and Mexico in 1848, and between France and Germany in 1871. In the case of Porto Rico and the Philippines, the treaty of cession left to Congress the determination of the civil status of their inhabitants. Congress declared the inhabitants to be citizens of the islands but not of the United States.

[5] Moore, International Law Digest, Vol. III, section 376.

CHAPTER VII

THE FORM OF THE STATE

270. Types of state in political evolution. On the basis of population and territory, the essential elements in state composition, a rough classification may be made of the chief forms assumed by the state in the process of its historical development.[1] Sometimes the political unit has been a compact group, relatively small in numbers, closely knit together by ties of kinship, religion, or personal allegiance, and occupying an area, small in size, so that intimate relations could be maintained among all its members. To this form of organization the term *community state* may be applied. At the other extreme is found the wide extended area, pieced together by conquest and migration, occupied by numerous and diverse peoples, and holding unquestioned supremacy in the world of its day. To this form the term *world empire* is usually applied. Between these, as a form of compromise, stands the *national state*, with its emphasis on natural boundaries and geographic unity, and on the predominant uniformity of race, language, and civilization on the part of its population. During the past century the activity of national states in establishing colonial empires and in partitioning among themselves large areas in the undeveloped parts of the earth has given rise to a new type of state, possessing certain characteristics of both the national state and the world empire. For this form the term *national empire* has been suggested.[2]

271. Types not distinct. Obviously, clear-cut distinctions cannot always be made among these political types. Each one shades off gradually into the others, the differences being largely those of

[1] States are usually classified on the basis of their governmental organization. See Garner, Introduction to Political Science, chaps. v–vii; Burgess, Political Science and Constitutional Law, Vol. II, Bk. III, chaps. i–ii; Willoughby, Nature of the State, chap. xiii; De Parieu, Principes de la science politique, chaps. i–v.

[2] Reinsch, World Politics, Part I; Giddings, Democracy and Empire, chap. i; Brooks Adams, The New Empire, chap. vi.

degree.[1] The same state, in the course of its evolution, may pass through several, or all, of these forms. Thus Rome, in its early tribal and city-state periods, was a community state; for a time, after it had unified Italy, it had many characteristics of a national state; with the extension of its dominion over all the lands bordering the Mediterranean, it became a world empire.[2] Besides, the same general type may reappear from time to time, under different conditions, in somewhat changed forms. Thus the community state would include such widely different phases as the tribal village, the Greek city, and the medieval manor; and the world empire would exhibit such widely different domains as those of Alexander, Cæsar, Charlemagne, and Napoleon.

I. The Community State

272. Characteristics of community state. The community state, in the form of tribe, village, or city, and with the essential characteristics of small, compact territory and limited, closely affiliated population, usually represents a primitive and undeveloped economic and political life;[3] although a number of causes have contributed to the rise of this particular form of state, and occasionally, as in the city states of Athens, Rome, and Venice, it has accompanied a relatively advanced degree of culture.

273. Early forms of community state: the patriarchal tribe. The earliest forms of organized association that displayed distinctly political elements were probably the patriarchal tribe and the agricultural village.[4] These units were necessarily small, because a limited food supply restricted the growth and concentration of population, and the exclusiveness of family and religion, while strengthening the internal solidarity of the group, prevented friendly union. Poorly developed trade, transportation, and communication, both causes and results of the jealousies and dislikes among the isolated communities, also hindered expansion. The

[1] Seeley, Introduction to Political Science, Lecture IV.

[2] Fowler, City State of the Greeks and Romans, pp. 312–332.

[3] Gomme, The Village Community; Ely, Evolution of Industrial Society, pp. 25–52.

[4] Jenks, History of Politics, chaps. iii–vi.

pastoral tribe, except in the steppe and desert regions where it survives in a modified form, disappeared early in the course of political development.[1] Pastoral nomads played a great part in the world's history as conquerors, as transmitters of civilization, and as the originators of great religions,[2] but they could not permanently compete with the more advanced economic conditions made possible by agriculture, manufacture, and trade, nor with the more efficient political systems of the village, city, and nation.

274. The agricultural village. As a unit of government, the agricultural village, which grew up when population, still organized in close family groups, became permanently settled upon the land, has had a longer lease of life.[3] With advancing culture, however, the natural tendency has been toward the confederation of a number of villages or their common subjection to a central authority, as took place in the growth of the Oriental empires and of the modern states; or toward the expansion and integration of the village into a city state, as took place in Greece and in some parts of medieval Europe. Nevertheless, even to-day the village community is the real unit of government in Russia [4] and China,[5] and the extension of the principle of local self-government in the most advanced states shows the fundamental soundness of this form of organization. A local community, village or city, is a natural political unit and has many interests that can be satisfactorily dealt with only when it possesses a considerable degree of local autonomy.[6]

275. The medieval manor. The medieval manor was perhaps the most striking example of the village-community type of government, and of the conditions from which it naturally results.[7] When the Roman Empire, with its advanced forms of economic

[1] Ratzel, History of Mankind, Vol. II, pp. 79–83; Burckhardt, Notes on the Bedouins and Wahabys, Vol. I.

[2] Semple, Influences of Geographic Environment, pp. 510–515.

[3] Seebohm, English Village Community; Howell, Indian Village Community.

[4] Haxthausen, Étude sur les institutions nationales de la Russie; Hourwich, "Economics of a Russian Village," in Columbia University Studies, Vol. II.

[5] Giles, China and the Chinese, Lecture III.

[6] Sidgwick, Elements of Politics, chap. xxv.

[7] Andrews, Old English Manor; Jessopp, Coming of the Friars, chap. ii; Cheyney, Industrial and Social History of England, chap. ii.

and political organization, fell before the Teutonic invaders, its fertile lands were parceled out among barbarian conquerors who were just emerging from the tribal organization and who disliked the restraints of city life. Trade and commerce disappeared because travel was unsafe and because the newcomers had no desire for commodities other than the simple products of their own lands.[1] The centralized political administration of Rome was destroyed by the conquerors, whose ideal of social organization was personal allegiance in small groups to popularly chosen chieftains. In the absence of other forms of wealth, land became the basis of society, and power and authority fell into the hands of the strong and wealthy who held the land. In the turbulent days of the invasions, after the authority of Rome had disappeared, protection of some sort for person and property was needed, and those unable to defend themselves naturally placed themselves at the disposal of some strong neighbor, holding their lands as his vassal. The mass of the conquered population labored as serfs bound to the land. The villa system and the custom of small landholders or landless men placing themselves under the protection of the great landholders were thoroughly established before the fall of the Empire.[2] Among the Teutons existed the institution called the *Gefolge* (*comitatus*) by which chieftain and warriors were bound by ties of personal allegiance and mutual aid into a closely affiliated group. Under the conditions of the times and with these institutions to serve as bases, that type of social, economic, and political organization called feudalism arose.[3]

276. Feudalism. Accordingly, the agricultural village, isolated and self-supporting, with governing authority resting in the hands of the lord who held the land, became the unit of government over large parts of Europe.[4] These villages were bound together by a complicated system of overlordships, at whose top theoretically stood the king, although the actual power of any centralizing

[1] Gibbins, History of Commerce in Europe, pp. 29–35.

[2] Dill, Roman Society in the Fifth Century, pp. 262–266.

[3] Adams, Civilization during the Middle Ages, chap. ix; Emerton, Introduction to the Middle Ages, chap. xv.

[4] For a good discussion of medieval political organization, see Wilson, The State, chap. v.

authority was for a long time more nominal than real.[1] Especially after the failure of Charlemagne to unify central Europe, the remnants of his empire degenerated into political fragments which for a long time resisted unification. The deterioration of political forms during the Dark Ages was also marked by the reintroduction into political evolution of many primitive features which the more advanced systems of Greece and Rome had to a considerable extent removed. Among these may be mentioned the close connection between church and state and the crystallization of society into rigid classes or "estates."[2]

277. The city state. In contrast to the warlike, liberty-loving tribes of the mountain and desert regions, and to the passive, laborious villages of the fertile river valleys, the third type of community state, the city, represented the prosperous commercial life of the seaboard or of the trading centers that arose at points where the natural routes of travel converged. The more advanced economic systems of the cities permitted the concentration of population within small areas; and these dense populations, within which growing inequalities of wealth created a leisure class and extensive social contact and the competition of diverse ideas stimulated mental activity, naturally became the leaders in culture as well as in wealth.[3] Since they were compelled to maintain a constant defense against the plundering raids of neighboring barbarians and since they often took the aggressive in attacking rival cities or in subjugating the surrounding peoples, these cities naturally developed effective systems of military and political organization; and the activities and prestige of their rulers brought added importance to those cities which were chosen as the seats of government. While the ancient city states were composed of both urban and rural districts, the natural congregation of inhabitants about the citadels and altars gave to these centers a leading position in the social system. Political power centered in the urban rather than in the rural districts.

[1] For the differences between English and continental feudalism, see Sidgwick, Development of European Polity, pp. 302–315.

[2] Emerton, Medieval Europe, chaps. xiv–xvi.

[3] Rowe, Problems of City Government, chap. i.

278. City states in the ancient world. Accordingly, in those parts of the earth where conditions made possible accumulated wealth and commercial relations, we find, even in the earliest times, powerful cities, such as Babylon and Nineveh, Memphis and Thebes, Tyre and Damascus.[1] Despotic rulers, surrounded by a powerful and wealthy nobility and priesthood, maintained by the labor of slaves and upheld by a mercenary soldiery, built their palaces and temples, their roads and public works, and waged war for the control of the areas of food supply and for the capture of slaves and of booty. Where plains and river valleys offered little resistance to expansion, these cities became the centers of loosely organized empires, and many of the characteristic features of the community state disappeared. Thus Babylonia, Assyria, Egypt, Phœnicia, and Persia were formed by the union of friendly cities or by the subjugation of many by the most powerful; and various cities in turn extended a temporary sway over large parts of the known world.[2]

279. City states in Greece. In Greece, however, the narrowness of the plains and the difficulties of the mountain barriers for a long time prevented invasion *en masse* and directed the early tribal settlements so as to preserve the old elements of social organization in the new circumstances of city life.[3] In these valleys and islands of Greece, protected against invading hordes, yet led by the sea to intercourse and trade, humanity first became conscious of itself and of its powers. Patriarchal clans, bound by ties of common kinship and religion, securing permanent abodes in these small areas, formed compact units and, clustering around some easily defended hill, built their little villages.[4] With permanent settlement, kinship ties relaxed, villages were united around some fortified hill or famous center of religious worship, and a spirit of political union and territorial patriotism accompanied the birth of the city state.[5] Two such communities in Greece — Sparta and Athens — early became preëminent, chiefly because they carried

[1] Fairlie, Municipal Administration, pp. 3–4.
[2] Cunningham, Western Civilization: Ancient Times, Bk. I, chap. i.
[3] Wilson, The State, pp. 26–41.
[4] De Coulanges, Ancient City, Bk. III.
[5] Fowler, City State of the Greeks and Romans, chap. ii.

the political consolidation of neighboring territory farther than other Greek states. Sparta secured political union in Laconia through subjection, which left lasting class distinctions and compelled an aristocratic military organization. Athens, by incorporation, became the only city of Attica; and the mingling of many elements in her population, together with the cosmopolitan influence of her commercial activity, paved the way for her democratic institutions.[1] The intense life in these city states first developed an independent and consistent political system and gave birth to that spirit of free discussion, that individualism, adaptability, and inventiveness that underlie modern civilization.

280. Phœnician and Greek colonies. The colonies established by the Phœnician and Greek cities, sometimes as trading posts, sometimes as outlets for surplus population, also took the form of cities which often maintained a loose political connection with their home states, but more frequently became independent political units.[2] Even the Græco-Oriental empire of Alexander was based upon the autonomous Greek city community in contrast to the former village life of the East. Alexander himself is said to have founded seventy cities, and about 300 B.C. there were two hundred so-called cities in the Hellenized world, of which Alexandria and Antioch were the most famous. While the necessity for a more extensive political organization prevented the independent statehood of these cities and subordinated them to the machinery of the imperial government, their economic life was highly developed and their powers of local government considerable.[3]

281. The beginnings of the city of Rome. In Italy also a number of villages arose, all of which fell finally under the sway of Rome.[4] Among the causes of Rome's preëminence may be noted its central position in Italy, its strategic commercial location at the head of navigation of the chief navigable river of the peninsula, and its exposed position, surrounded by hostile neighbors, necessitating military ability and strong organization. Besides, Rome was established by the incorporation of a number of tribes living

[1] West, Ancient History, pp. 106–113.
[2] Morris, History of Colonization, Vol. I, chaps. ii–iv.
[3] Fairlie, op. cit., pp. 4–18.
[4] Rowe, Problems of City Government, pp. 20–26.

on a group of hills in the midst of a fertile plain. The federation of these settlements broke down the rigidity of custom that fettered isolated societies, compelled compromise, and started Rome upon the development of her system of law and her career of external growth that finally created the Empire. Rome expanded by conquering and founding cities.

282. The Roman municipia. The neighboring Italian cities, first acquired, were treated as allies and, although under Roman political and military rule, were allowed considerable local autonomy. Even the Greek and Phœnician cities, which were later brought under Roman domination, preserved by treaty many rights, some being even exempt from fiscal burdens. The colonies or new cities founded by establishing veteran soldiers on conquered territory enjoyed much local freedom, although under the constant supervision of the central government. The distinctions between cities gradually disappeared under the empire, and by the third century A.D. all cities were placed on a common basis, the Roman municipal town occupying a legal position similar to that of the modern city.[1] Ancient Italy is said to have had twelve hundred cities, Gaul an equal number, Spain three hundred and sixty, Asia five hundred, and even Africa three hundred.[2] In the first century A.D. Alexandria had a population of half a million and Rome of from one to two millions. City populations did not again reach such figures for many centuries. Not until the seventeenth century did London and Paris reach the half million mark and, after the fall of Rome, no city had a million inhabitants until the eighteenth century.[3]

283. Causes of the decline of the ancient city states: internal. Several causes mainly were responsible for the disappearance of the ancient city state. Internally, the chief danger was factional strife, the *stasis* of the Greeks.[4] Extremes of wealth and poverty, the natural results of city life, and conflicting interests which over a large area would be tempered by distance or by the conservatism

[1] Goodnow, Municipal Government, pp. 46–50.

[2] Gibbon, Decline and Fall of the Roman Empire, chap. ii.

[3] Weber, "Growth of Cities," in Columbia University Studies in History, Economics, and Public Law, Vol. XI.

[4] Fowler, City State of the Greeks and Romans, chap. viii.

of a scattered rural middle class were brought into direct collision in the compact ancient cities, and the feelings of social injustice that resulted kept the cities in a turmoil of factional outbreaks. This disease was so universal and virulent in the Greek world that Aristotle devoted an entire book[1] of his "Politics" to its analysis and suggested as remedies a more equal distribution of wealth and universal political education. Rome also suffered from recurrent class struggles and civil wars.

284. Causes of the decline of the ancient city states: external. Externally, the chief danger was expansion.[2] Sufficient means of subsistence could often not be secured except by holding colonies or dependencies, and that was fatal to the city-state system. As population grew and common interests were established over wider areas, a more extensive and centralized form of organization was needed to secure protection and good order. If a city grew large and powerful and subordinated other cities to itself, the dominant city, having to face new duties and responsibilities, would lose its original character; and the conquered cities, no longer self-governing, would lose their true existence as states. In this way the Roman Empire outgrew the constitution of the Roman city and swallowed up the independent city states of Italy.[3] Sometimes cities tried to avoid this danger by forming a confederation with a common central government. In order to secure the benefits of union, however, each city was compelled to give up some part of its own independence, and the dominant city naturally tended to subordinate the weaker members in its own interest. Thus Athens, Sparta, and Thebes in turn converted leagues of cities into empires and destroyed the independence and vitality of the component units.[4] When authority within the confederation was too evenly balanced to permit the predominance of any city, internal quarrels weakened the strength of all and made easy external conquest at the hands of a larger and more centrally organized foe. Hence Greece, whose leading cities were weakened by mutual

[1] Bk. V.

[2] Fowler, op. cit., chap. ix.

[3] Wilson, The State, pp. 107–137.

[4] For the process by which the Delian League was transformed into the Athenian Empire, see West, Ancient History, pp. 157–164; Oman, History of Greece, chaps. xxii–xxv.

enmities, fell easy prey to the kingdom of Macedon and later to imperial Rome. Internal factions and external expansion destroyed the ancient city states.

285. Decadence of cities during Dark Ages. The Germanic invasions which caused the downfall of the western Roman Empire led to a retrogression in city life. The Germans disliked urban restrictions and confinement and for a long time did not found cities.[1] Commerce languished during the disorder following the break-up of the Empire, and cities, depending upon trade and manufactures, no longer found opportunities for procuring materials or disposing of their products. While the movements of this period did not directly affect the cities of the East,[2] and while some of the old municipalities in Italy, Spain, and southern Gaul maintained the Roman traditions, city life was narrowed and municipal affairs fell generally under the control of the church, administration resting in the hands of the bishops.[3]

286. Revival of city life. Beginning in the eleventh century, reasonable conditions of peace and renewed commerce resulting from the contact of East and West in the Crusades led to a revival of city life.[4] Italy, the most highly civilized part of Europe, occupied the strategic commercial position, and her cities, Pisa, Genoa, and Venice, first felt the effects of the new movement. Urban population increased in numbers and in wealth. New economic conditions soon brought about changed political institutions, the cities gradually winning a position as local communities outside the feudal system of the time, especially in those parts of Europe — Italy and Germany — where national unity and strong central authority were lacking. Urban centers, because of the unsettled conditions of the times, were usually surrounded by walls, and this led to the development of a city peace and a civic spirit. The differences between the urban communities governed by bishops and the rural districts under the jurisdiction of feudal officials also emphasized the

[1] Goodnow, Municipal Government, pp. 51–52.

[2] Munro, History of the Middle Ages, chap. x; Gibbon, Decline and Fall of the Roman Empire, chap. lvii.

[3] Thatcher and Schwill, Europe in the Middle Age, pp. 452–454.

[4] Adams, Civilization during the Middle Ages, chap. xii; Fairlie, Municipal Administration, pp. 19–31.

position of the city as a distinct political unit. Contests between kings, nobles, and clergy further favored the independence of the cities, since concessions were granted when aid from the cities was needed and privileges were bought or forced from overlords when their hands were tied with other difficulties.[1]

287. Growth of free cities. One of the chief reasons why the cities desired independence was because the feudal law was not suited to commercial and industrial communities, and the right to make their own law-merchant and to hold their own courts was essential to business prosperity. Within each city the artisan guilds and the associations of merchants formed local communal organizations[2] which dealt as a body with the feudal lords or the ecclesiastical officials and secured freedom from commercial restrictions and rights of local self-government.[3] Hence many cities in Italy and Germany became practically independent political units. As a result of commercial wars, certain Italian cities were subjected to the control of others so that larger states were formed and the city fell into a subordinate position. Milan and Florence represented this tendency.[4] Venice and Genoa, while conquering surrounding territory and establishing colonies, remained city states for several centuries.[5] The German cities, compelled to wage a more desperate conflict with the feudal princes, made alliances with other cities, formed leagues such as the great Hanseatic League,[6] and attempted to monopolize trade and obtain dominion over outlying territories.

288. Cities in France and England. France also was affected by the revival of commerce. Consular cities formed in imitation of the Italian city states arose in the south, and communes secured charters granting self-government from the feudal lords in the north. The growth of the centralized French monarchy, however, soon placed these cities in the position of subordinate members of

[1] Emerton, Medieval Europe, pp. 519–540.

[2] Cheyney, Industrial and Social History of England, chap. iii; Gross, The Gild Merchant.

[3] Duruy, History of the Middle Ages, chap. xxii.

[4] Thatcher and Schwill, op. cit., pp. 458–473.

[5] Morris, History of Colonization, Vol. I, chap. iii–iv.

[6] Zimmern, The Hanse Cities; Day, History of Commerce, chap. xii.

a larger state.[1] In England, because of the early centralization of royal power, the establishment of a common law not based on feudal principles, and the backwardness of trade and commerce, city states never developed.[2] The growing importance of representatives from the towns in the national parliament also emphasized the subordination of the English boroughs to the central government.

289. Nature of medieval city states. While these medieval cities, which sprang up in Italy, Germany, and France as a result of the revival of commerce, possessed many characteristics of independent states, they were not, with perhaps a few exceptions of which Venice was the chief, true examples of the city state.[3] The ancient theory of a distinct religious worship did not lie at the basis of the new municipal organization. Besides, whatever degree of independence the cities possessed, they seldom claimed complete immunity from the authority of emperor or king. Finally, the cities were interested not so much in political independence as in freedom from commercial restrictions.[4] When changes in law and government were secured which enabled trade and commerce to be successfully carried on, the medieval cities declined in political importance. With the widening of social and economic interests, what had been of local concern became of general concern; and the cities, having fallen into the control of narrow, selfish oligarchies, had no longer any reason to exist as separate and independent communities.[5] The revival of Roman law as a national state law satisfied the commercial needs of the sixteenth and seventeenth centuries; the religious wars of this period destroyed the commercial prosperity of the German cities; and the closing of the Oriental trade routes by the Turks destroyed the commercial supremacy of the Italian cities.[6] Accordingly, the surviving free cities offered little resistance to the attempts upon the part of the growing national states to subject them to their power.[7]

[1] Thatcher and Schwill, Europe in the Middle Age, chap. xvi.
[2] Fairlie, Municipal Administration, pp. 42–49.
[3] Goodnow, Municipal Government, pp. 55–77.
[4] Rowe, Problems of City Government, pp. 27–37.
[5] Fairlie, op. cit., chap. iii.
[6] Day, History of Commerce, chap. xv.
[7] Goodnow, op. cit., pp. 63–65, 71–77.

II. The World Empire

290. Conditions leading to world empire. At the other extreme from the compact and natural political unit formed by the tribe, village, or city stands the empire, which unites under a single political authority wide area and numerous population, regardless of geographic barriers, racial differences, or diversity of language, religion, and law. The imperial idea first arose in the warm, fertile river valleys of Egypt, Babylon, India, and China.[1] These areas, furnishing abundant food with little effort, supported large populations whose complex relations early demanded regulation. Conflict and intermingling of peoples also resulted when surrounding tribes were attracted toward the fertile areas or when growing population needed room for expansion. Abundant population created a large servile class with resultant social differences, castes, and despotism.[2] The need for controlling primitive men, unused to obedience, led to rigid custom, enormous priestly power, and conservative policy. Political authority rested upon a theocratic basis, and all laws derived their sanction from the will of the gods.[3] These conditions created vast empires, despotic and stagnant.

291. Nature of Oriental empires. The Oriental empires were, indeed, collections of loosely united states rather than single integrated political bodies.[4] Built up by conquest, these states had no natural basis for cohesion and fell apart whenever the ruling dynasty was weakened. In many cases the dependency of the parts was limited to the payment of yearly tribute, to the furnishing of a quota of soldiers in case of war, or to the acknowledgment of the supremacy of the imperial monarch. The subject nations retained their own languages, customs, and religions, and ofttimes their own rulers. In this way national aspirations were kept alive, with the result that Oriental history is largely a record of the rebellions of dependent states against their imperial rulers. If resistance

[1] Perris, War and Peace, chap. ii; Seignobos, History of Ancient Civilization, chaps. iii–v.

[2] Buckle, History of Civilization in England, Vol. I, pp. 30–85.

[3] Woolsey, Political Science, Vol. I, pp. 495–504; Garner, Introduction to Political Science, pp. 128–131.

[4] Willoughby, Political Theories of the Ancient World, chap. ii.

was repeated, the autonomy of the conquered might be destroyed and satraps sent to rule over them, or in extreme cases the rebellious population might be deported to distant lands or even annihilated.[1] The empire of Persia under Darius represented the highest development of the Oriental empire.[2] However, the use of the words "kingdom" and "empire," as applied to ancient states, is often misleading, implying the existence of political unity where great diversity reigned. India, for example, has always been an aggregation of small associations without any consciousness of a common country, and Persia was merely a juxtaposition of peoples and cities.

292. The empire of Alexander. The first real world empire was that established by Alexander the Great. The Greek cities, weakened by internal factions and mutual jealousies, fell an easy prey to the larger, more warlike, and more centrally organized kingdom of Macedon.[3] The failure of the Greek city states to federate or to consolidate made inevitable their absorption by some outside power; but Macedon, after subduing the rebellious cities, preferred to pose as the unifier and leader of the Greeks rather than as their conqueror. Hence she aroused a national spirit and disguised the subordination of the formerly independent cities by arranging a common undertaking against Persia, the traditional enemy of the Hellenic peoples. A series of brilliant campaigns extended Greek control over the greater part of the ancient world. Asia Minor, Syria, Egypt, and the Tigris-Euphrates district fell in turn, and the victorious arms of the Greeks were carried across the Asiatic deserts to the river Indus and the mountain passes of the Hindukush.[4] East and West were united by Alexander, who hoped by the fusion of their peoples and their civilizations to create a better race stock and a higher culture. The great marriage festivals when thousands of Macedonians took Persian wives symbolized his idea.[5] In the building of cities governed under Greek constitutional forms

[1] For example, after frequent revolts a large number of Hebrews were carried captive to Babylon in 586 B.C. Previously in 722 B.C. a large portion of the "Ten Tribes" of Israel had been scattered over the Assyrian Empire.

[2] Sayce, Ancient Empires of the East, chaps. iv–v.

[3] Allcroft and Mason, Decline of Hellas.

[4] Budge, Life and Exploits of Alexander the Great.

[5] Wheeler, Alexander the Great.

and in planning a system of world commerce, Alexander had far-reaching schemes for the establishment of a universal empire.[1]

293. Dismemberment of Alexander's empire. While the Græco-Oriental culture resulting from the luxuriant growth of Greek civilization in the fertile soil of Asia was a successful result of this fusion and persisted for centuries, the political work of Alexander was impermanent.[2] His own early death, before he had established uniform institutions, hastened the disintegration of his empire, but its fundamental political basis was unsound. "Political ideas were confused by the mixture: the free human view which the Greeks took of the state could not be united with the religious regard of the Persians for a divine kingdom. The Macedonian monarchy could not at the same time be an Asiatic theocracy. The Orientals willingly believed that Alexander was the son of the most high God; the Europeans were disgusted by his pretensions to divine honors. And races were confused. Hellenic science and culture freed the Oriental world from the limitations of its religious and political bonds; but their effect was rather to break up the old than to create a new world. The deification of a man drove out reverence for the old gods; European civilization became dissolute luxury, and helped to complete the degeneracy of the East."[3] The political experience which made Greece great was lost in the career of Asiatic expansion; and the Græco-Oriental empire, lacking any natural bond of union, soon broke up into separate kingdoms, many of which fell an easy prey to the legions of Rome.

294. Establishment of the Roman Empire. The empire of Rome was more enduring and represented the nearest approach to a realization of the ideal world empire. Arising as a city state, formed by the union of several Latin tribes, the internal history of Rome was for a time similar in its main features to that of the Greek cities;[4] but before this line of evolution had been carried to its conclusion, the whole course of political development in Italy

[1] Gardner, New Chapters of Greek History, chap. xiv.

[2] Mahaffy, Survey of Greek Civilization, chap. viii; Holm, History of Greece, Vol. IV.

[3] Bluntschli, Theory of the State, pp. 27–28.

[4] Abbott, Roman Political Institutions, chaps. i–ii; Mommsen, History of Rome, Vol. I, chap. v.

was changed by a series of external events which led in some ways to a reversion to the Oriental type of state and in other respects made important contributions to political progress. Geographic conditions in the main account for the difference in the trend of Greek and Roman politics. Italy is better adapted for internal unity than Greece. The divisions are larger and less distinct, the plains and uplands better suited to agriculture and grazing, and the absence of harbors and islands offers fewer advantages for commerce. Hence, while civilization came later, energy was kept at home until Italy was united into a single state under Rome's headship. The direction of external effort further affected Rome's political progress. With the Apennines near the eastern coast, and the fertile plains, rivers, and harbors on the west, Rome naturally had little contact with Eastern peoples until her institutions were well established. On the contrary, she faced toward Gaul and Spain, and, through Sicily, toward Africa. Her first wars were with inferior nations and led naturally to conquest, to expansion of territory, and to the civilizing of fresh, vigorous peoples. Later the East also came under her sway, her central position enabling her to concentrate her forces and conquer her enemies in detail. Rome left no other state powerful enough to protect the seas or to guard the frontiers of the civilized world. It was therefore her plain duty to shoulder this responsibility, and in so doing she was drawn on from conquest to conquest until she became the mistress of the world.[1] All the civilized peoples bordering the Mediterranean were united in a vast empire, three thousand miles long and one thousand miles wide, with a population of nearly one hundred millions.

295. Effects of expansion upon Roman government. It was this career of conquest and expansion that compelled Rome to develop a new form of state. The type of government that was suitable to a compact community was not workable over a large area, and the self-government which was safe and effective among the homogeneous population of the city could not be extended to the diverse and in some cases politically inexperienced peoples that were incorporated into the empire. To secure order and unity in the vast

[1] Freeman, Chief Periods of European History, Lecture II.

area over which Rome's conquests extended required a bureaucratic organization and a powerful authority concentrated under a single head.[1] By its generous policy in extending citizenship and legal rights, by its prosperity and good government, by its uniform law and its easy intercommunication, the Roman Empire molded the manifold races of its realm into a unity and won spiritual dominion over the minds of men.[2] The union was not one of external force alone but was organic. The provinces formed an integral part of the empire and were Roman in culture and in spirit.[3] How well Rome succeeded in creating a satisfactory imperial organization is shown by the fact that her rule lasted for five centuries in the West and for fifteen centuries in the East. The Christian church developed its organization on a Roman basis; the ideal of world empire long outlived the destruction of actual unity; and Roman law and Roman methods of colonial and municipal administration underlie modern systems. Sovereignty and citizenship were worked out by Rome, and her methods of binding divergent nations into political unity have never been surpassed.

296. Evils in Rome's political system. The formation of this united and well-governed empire was not accomplished, however, without accompanying evils. To secure authority, individual freedom was sacrificed. The corruption of the populace in the capital, the military danger on the frontiers, and the maladministration of the provinces all demanded a single powerful and responsible head. Local self-government and popular authority disappeared as the centralized, bureaucratic administration grew. Rome became mistress of the world before she had learned how to rule it, and her constitutional system, satisfactory in a free city or an allied Italy, was not elastic enough to rule the world.[4] From the path of empire there was no retreat, but the reaction of the conquests on Rome lowered her own moral tone and contributed to her economic and political decay.[5] Rome's system prevented political education and

[1] Abbott, Roman Political Institutions, pp. 129–149, 266–288.
[2] Thierry, Tableau de l'empire romain.
[3] Adams, Civilization during the Middle Ages, pp. 20–38.
[4] Fowler, City State of the Greeks and Romans, chap. xi.
[5] Hodgkin, Italy and her Invaders, Vol. II, pp. 532–613; Adams, op. cit., pp. 76–88.

its very perfection brought about its ultimate fall. Rome contributed to political evolution the principle of unity and centralized organization, but the ability to combine sovereignty and liberty, to make self-government possible over large areas, and to secure the best interests of both individual and state was reserved for a later time and a new people.

297. Decline of the Roman Empire. Evidences of decline appeared in the Roman world as early as the third century A.D.[1] The diminished vitality of the race stock was indicated by the stationary population and by the ravages of terrible pestilences. Unable to make further conquests, Rome was thrown upon the defensive and found increasing difficulty in maintaining her frontiers. The imperial power became the spoil of the army and was even auctioned to the highest bidder. Burdensome taxation and the abundance of slave labor destroyed the middle class, and sufficient citizen soldiers to recruit the legions could not be secured. While the vigorous reforms of Diocletian and Constantine checked this decline and bolstered up the empire for two more centuries, their work consisted in strengthening the centralized, despotic machinery of the empire and in the end made its fall more certain and complete.[2] Internal decline made it increasingly difficult for Rome to maintain her frontiers against those vigorous Teutonic barbarians whom she had been unable to conquer. Great numbers of these were gradually admitted and many found service in the army. By the fifth century A.D. the boundaries were so indistinct, the army so largely barbarian, and the pressure along the frontiers so great that the declining empire in the West fell to pieces and was parceled out among the various Teutonic tribes.[3]

298. Survival of the ideal of world empire in the Middle Ages. Even after the fall of Rome the ideal of world empire survived. The two leading ideas which expiring antiquity bequeathed to the Middle Ages were those of world monarchy and world religion. The Christian church, organized on the model of the Roman

[1] Gibbon, Decline and Fall of the Roman Empire, chaps. iv–xii.

[2] Seeley, Roman Imperialism, pp. 65–95.

[3] Perris, War and Peace, chap. iv; Emerton, Introduction to the Middle Ages, chaps. iii–vii.

Empire, served as a bond of unity in western Europe and threw the weight of its authority on the side of the imperial idea. The Frankish monarchy, in alliance with the church, revived the imperial title and the Roman name. Charlemagne aimed to unite all the Germanic peoples into a single state and actually ruled over the greater part of the area now included in France, Germany, and Italy; the Holy-Roman Empire of Otto and his successors was universal in theory, although narrower in extent than that of Charlemagne, France having been permanently lost toward the end of the ninth century. The existence of the state as a monarchy, the exact coincidence of its limits and the perfect harmony of its workings with the limits and workings of the church, and its universality — these were the vital principles of medieval political theory.[1]

299. Nature of the Holy Roman Empire. In actual fact, the medieval empire embraced a number of essentially independent states, formally subject to the emperor but in reality ruled by their local lords. The superiority of defense over offense in medieval warfare made large-scale conquest impossible.[2] The rise of diverse languages and nationalities also prevented unity. The centrifugal forces of feudalism, the conflict between church and state, and the principles of nationality, aristocracy, and popular freedom were too strong for the slender powers of the German king and Roman emperor, and the medieval empire went to pieces, its fragments reappearing on national lines in modern France, Germany, and Italy.[3] For centuries, however, the ideal of the Holy Roman Empire served to counteract the Teutonic overtendency to individualism and decentralization; and the imperial idea was the rallying point of the best minds as they strove against the anarchic forces of feudalism in behalf of order, peace, and progress.[4]

300. Contributions of the Holy Roman Empire. Modern political civilization owes much to the medieval empire. To its existence is chiefly to be ascribed the prevalence of Roman law throughout

[1] Bryce, Holy Roman Empire, chaps. vii, xv, xxi; Carlyle, History of Medieval Political Theory; Gierke, Political Theories of the Middle Age.

[2] Oman, History of the Art of War: The Middle Ages, pp. 551–553.

[3] Robinson, History of Western Europe, pp. 148–187.

[4] Cf. Dante, De Monarchia.

Europe and its practical importance in our own days.[1] International law can also be traced to the same fountain head.[2] Its chief contributions were indirect in nature. "It tamed the barbarous races of the North, and forced them within the pale of civilization. It preserved the arts and literature of antiquity. In times of violence and opression it set before its subjects the duty of rational obedience to an authority whose watchwords were peace and religion. It kept alive, when national hatreds were most bitter, the notion of a great European Commonwealth. And by doing all this, it was in effect abolishing the need for a centralizing and despotic power like itself: it was making men capable of using national independence aright: it was teaching them to rise to that conception of spontaneous activity, and of freedom which is above law but not against it, to which national independence itself, if it is to be a blessing at all, must be only a means."[3]

301. Napoleon's attempt at world empire. The latest attempt to revive the idea of world empire was that of Napoleon in the early years of the nineteenth century. The enthusiasm of the French Revolution became infected with the spirit of conquest, and the improved methods of military armament and organization, destroying the medieval superiority of defense over attack, again made possible extensive campaigns of aggression.[4] The ambition of Napoleon aimed at a vast international state including all Europe, with individual states as members and with imperial power in the hands of the French. By posing as the champion of the liberal ideas of the French Revolution, voluntary support was secured from some of the European peoples. The military strength of France and her allies conquered others; Prussia, anxious about its very existence, and Austria, proud of its imperial history, offering bitter resistance in repeated wars. At one time Napoleon with his ally Russia controlled practically all of continental Europe, the largest empire ever united under a single authority.[5]

[1] Wilson, The State, pp. 184–195; Jenks, Law and Politics in the Middle Ages; Morey, Outlines of Roman Law, pp. 167–218; Lee, Historical Jurisprudence, chaps. xiv–xv.

[2] Maine, Ancient Law (Pollock's edition), pp. 92 ff. and Appendix, Note H.

[3] Bryce, Holy Roman Empire, p. 394.

[4] Perris, War and Peace, pp. 168–169.

[5] Rose, Revolutionary and Napoleonic Era, chaps. viii–x.

302. Failure of Napoleon's imperial plans. Napoleon hoped to do in a generation what it had taken centuries for Rome to do, and his plan failed, largely because he underestimated the strength of nationality as a factor in the political life of modern Europe. He failed to overcome the dogged resistance of the Spaniards, who waged guerrilla warfare in the mountain fastnesses of their homeland; of the English, in whom a historical national spirit was united with Teutonic ideas of independence; and of the half-barbarous Russians, who withdrew to their frozen steppes defeated but not conquered. The economic distress caused by his continental system and by the heavy taxes resulting from his military enterprises angered his allies and aroused the peoples of Europe.[1] Napoleon avoided the weakness of the medieval empire and created the machinery for a strong and centralized administration, but the nations of Europe felt their independent existence threatened by universal empire without being satisfied with the new world unity, and the French were not strong enough to hold them forcibly in permanent subjection.[2] After Waterloo, the Congress of Vienna (1815) recognized a half dozen major states as preëminent in European affairs, arranged the boundaries and destinies of the minor states, and inaugurated the régime of the concert of powers which, cross-sectioned by rivalries and alliances, agrees at least in its antagonism to the overshadowing strength of any single state.[3]

303. Value of the imperial ideal. The underlying principles of the imperial ideal, however, have always appealed to intelligent men. The unity of mankind, the supremacy of law based upon reason, the solidarity of all human interests, and the effective organization of peace are among the splendid conceptions that give dignity to the idea of universal empire. As obstacles to the realization of this ideal, there have appeared in practice the passions, ambitions, and rivalries of leaders, the disparity of races, the spirit of local independence, the conflict between the temporal and spiritual forms of obedience, and the physical limitations of time and

[1] Mahan, Influence of Sea Power upon the French Revolution, chaps. xvii–xviii.

[2] Andrews, Historical Development of Modern Europe, pp. 37–85.

[3] Rose, op. cit., chap. xi; Robinson and Beard, Development of Modern Europe, Vol. I, chap. xvi; Cambridge Modern History, Vol. IX, chaps. xix–xxi.

space to central control.[1] Accordingly, every attempt to establish a world empire has been compelled to yield to impulse, interest, self-sufficiency, and experiment, working themselves out in their own independent way under local conditions. It does not follow, however, that because the imperial idea has failed in practice that it must therefore be abandoned. Its principles, fundamentally sound, may have been wrongly applied. As an ideal toward which the evolution of the state is tending and should tend, the universal political organization of mankind still holds its place. Bluntschli says, "Only in the universal empire will the true human state be revealed, and in it international law will attain a higher form and an assured existence. . . . The perfect state is, as it were, the visible body of humanity. The universal state or universal empire is the ideal of human progress."[2]

III. The National State

304. The nature of the national state. The community state had a logical basis, since it coincided with a natural local unit and since its population was usually of the same kin and worshiped the same gods. In practice this type of state failed because of internal faction and because of the need for wider political organization as population increased and interests expanded. In theory the world empire is the perfect form of state, being most economical and efficient in administration and best securing peace and unity among all peoples. In practice this type of state has fallen to pieces because of the diverse interests of its parts or because of the gradual stagnation which accompanies uniformity, especially in the despotic and rigid organizations by which alone historic world empires have been controlled. As a compromise between these two extremes, neither of which has proved to be a stable or satisfactory political form, stands the national state, with its emphasis on natural geographic frontiers and an ethnically homogeneous population.[3]

[1] Hill, World Organization and the Modern State, pp. 2–4.

[2] Theory of the State, pp. 26, 32. See also Burgess, Political Science and Constitutional Law, Vol. I, pp. 85–89; McKechnie, The State and the Individual, chap. xi.

[3] Burgess, op. cit., Vol. I, Bk. I, chap. iv; Reinsch, World Politics, pp. 3–6.

305. Evolution of the national state. Traces of the national state in a crude form appeared even in ancient times. Macedon, before it conquered Greece, and Rome, after it had unified Italy, were examples; but in each case the state in this form was in a transition stage, the same conditions that created unity over the natural area and among the national population urging the state to further expansion and conquests, and transforming the embryonic national state into an overgrown empire. The national state proper arose in Europe, as a result of the fusion of Roman and Teutonic peoples, institutions, and ideas, after the feudal chaos which followed their first contact.[1] Between the fifth and the thirteenth centuries A.D. Europe tried various principles of political organization. Feudal aristocracy and city democracy were both failures in order and permanence. The ideal of a universal empire was destroyed by the quarrel between emperors and popes.[2] Toward the close of the Middle Ages, as population became stationary and common interests developed, it became increasingly evident that new states would, in general, follow ethnic and geographic lines. Bonds of nationality, language, and religion, strengthened by natural boundaries, grouped the feudal fragments into more and more permanent combinations; and France, Spain, England, Switzerland, Holland, Russia, and later Germany and Italy arose.[3]

306. Internal organization of national states. During the feudal period each of these areas had contained several distinct and mutually jealous classes, — nobles, burghers, artisans, clergy, peasants, — and social sympathy had followed lines of class cleavage across Europe.[4] The new national states, within their respective territories, welded these classes into one nation with a common patriotism. The growth of a strong monarchical government in each of these states, consolidating the feudal authorities under a central and uniform administration, attacked the temporal authority of the church and separated more clearly religious and political ideas.[5]

[1] Adams, Civilization during the Middle Ages, chaps. v, ix.

[2] Bryce, Holy Roman Empire, chaps. x–xi, xiii; Hill, History of Diplomacy in the International Development of Europe, Vol. I, chap. v.

[3] Guizot, History of Civilization, Lectures X–XI.

[4] Bluntschli, Theory of the State, Bk. II, chaps. viii–xv.

[5] Dunning, Political Theories: Ancient and Medieval, chaps. ix–xi.

Dangerous sources of internal dissatisfaction and revolt were thus removed, and a stable and organic political form was developed. The contest between kings and peoples for political power was, of course, still to come.[1] The separation of Europe into distinct states, each with its own national spirit, destroyed the idea of a common superior and made possible the rise of international law and the modern theory of the sovereignty and equality of states.[2]

307. International rivalries. Unfortunately, the leading states, emphasizing their distinct identities and their patriotic pride, became intensely jealous of each other; and a long period of international wars, dynastic, territorial, commercial, and colonial, followed. In these wars the essential bases of the national state were often disregarded and Europe was partitioned among the stronger powers with utter disregard of its natural geographic divisions or the wishes of its nationalities.[3] During the last century the principle of nationality, clearly realized, has become a dominant force, each nation demanding the right to choose its own form of government and to manage its own affairs in its own way. As a result, ill-assorted collections of nationalities, such as the Austrian and Ottoman empires, have been partially dismembered, and new nation-states, such as Germany, Italy, Belgium, and Greece, have been called into existence. This process, checked by international jealousies and by survivals of the older political traditions, is still taking place.

308. The present international community. Successful nations have thus developed clearly marked individualities, and the medieval dreams of world unity have been replaced by a community of independent states, each striving to realize its individual characteristics. The political ideal of the modern world is thus far removed both from the uniformity of world empire and from the anarchy of local custom. The balance of power that results has certain advantages.[4] The sharp rivalry among nations calls for the constant

[1] See below, Chapter VIII, sections 340–366.

[2] Hershey, Essentials of International Public Law, pp. 52–54.

[3] Robinson and Beard, Development of Modern Europe, Vol. I, chaps. ii–vii, xv–xvi.

[4] For the origin of the system of balance of power in Europe, see Nys, Les Origines de droit international, chap. viii. For objections to the system of European equilibrium, see Hill, World Organization and the Modern State, pp. 133–135.

exercise of all their powers in order to avoid decadence. "Even with its occasional discords, the present general harmony of the concert of nations is to be preferred to the dead monotone of a world state. Each nationality is in this competition given an opportunity to develop its characteristics freely, and to enrich the general life of the civilized world with its distinctive literature, art, music, and moral ideals. The rapid social progress since the Renaissance is certainly due in great measure to this rivalry of independent nations, constantly invited to self-criticism by the successes and failures of their neighbors." [1]

309. Tendencies toward nationalism. At the present time two tendencies, both powerful, yet in many respects antagonistic, are influencing the form of the state. On the one hand is the emphasis placed on ethnic and geographic unity. The national state with well-defined natural frontiers and with a homogeneous and united people seems to be the goal toward which the development of the past five centuries has tended, and states wage war to secure or maintain their natural boundaries, and use every means to increase the solidarity of their populations. France, for example, has aimed for centuries to reach the Rhine; peoples like the Irish, the Poles, and the Finns are forced into unwilling assimilation with nations superior in organization and strength. A number of well-organized, yet distinct and often rival, national states is the logical outcome of this movement. During the latter half of the nineteenth century, nationalism was, indeed, exaggerated beyond a healthy desire to express the native characteristics of a people, and resulted in prejudices, suspicions, and idiosyncrasies, each nation looking upon itself as the only true leader of civilization. International motives were misunderstood, and competition in armaments and in all fields of human activity took on tremendous dimensions.

310. Tendencies toward internationalism. On the other hand, many influences interfered with this process. The growth of enlightenment, which makes sympathy more cosmopolitan and the unity of mankind more real, is breaking down the former narrower ideas of patriotism and national supremacy. The enormous expansion of economic interests, by which the whole world has become

[1] Reinsch, World Politics, pp. 24–25.

a single market, with trade no longer limited by natural or political boundary lines, is striking a powerful blow at the very foundation of the national state. The formation during the last few centuries of great colonial empires, composed of widely scattered areas and most divergent peoples, while emphasizing international rivalries, has tended to destroy the geographic and ethnic unity on which the national state is based. Expansion in population and in economic interests necessitated expansion in territory; hence, to nationalism modern states have added imperialism, and the most remote regions have been parceled out in the fierce scramble for the unoccupied portions of the earth's surface. The nineteenth century was the age of nationalism; the twentieth is to be the age of national imperialism.[1] Whether these apparently opposite tendencies are in reality only two sides of the same movement, looking to the formation of a world federation on the basis of national units, the future alone will reveal.[2] It is unquestionably true that the past half century, a period of international conferences, associations, and commissions, has seen remarkable progress toward unity. The spirit of nationality is being modified or supplemented by that of internationalism, and the older conceptions of sovereignty and independence are yielding to ideals of interdependence.[3]

IV. General Tendencies

311. Increase in area and population. In the evolution of the state's composition, a striking tendency toward increase in the area and population of the political unit may be observed. "Growth has been the law of human societies since the birth of man's gregarious instinct. It has manifested itself in the formation of ever larger social groups, appropriating ever larger areas. It has registered itself geographically in the protrusion of ethnic boundaries, economically in more intensive utilization of the land, socially in increasing density of population, and politically in the formation

[1] Reinsch, World Politics, pp. 8–14.

[2] On world organization, see Bridgman, World Organization; Novicow, La Fédération de l'Europe.

[3] Hershey, Essentials of International Public Law, pp. 73–91.

of ever larger national territorial aggregates." [1] Beginning with the primitive pastoral and agricultural communities, this process of territorial expansion and political integration reached its climax in ancient times in the Roman Empire. When, however, political power passed during the medieval period into the hands of the conquering barbarians, much of the political achievement of the ancient world was for a time destroyed, and the feudal state reverted to the small and isolated local type. With the revival of political progress in modern times, and especially with the colonial activities of the past century, the process of expansion has been renewed; and the national states of the present day, such as the British Empire, Russia, and the United States, represent the widest extent of territory and the greatest number of persons ever brought under a single permanent political authority.

312. Former advantages of small area. In the early life of the state, small, compact areas with fixed boundaries had certain advantages. In confined regions men pass rapidly from a natural to an artificial source of subsistence, population becomes dense, national solidarity more powerful, and social and political organization more elaborate. Small diversified countries, like Japan, England, and Italy, in creating individuality and national character, have many advantages over the monotonous plains of Russia or America.[2] Small favored areas, if occupied by a strong political power, and especially if having outlet to the ocean, frequently secure a permanent advantage by the early start they get in the occupation of colonial lands. Phœnicia, Crete, Venice, England, and Japan furnish examples. Isolated and protected regions, such as Egypt, Phœnicia, and Venice, encourage the early rise and rapid growth of civilization, but later they cramp progress and are outstripped by larger and more accessible areas. The historical importance of islands, in spite of their naturally dense population, belongs mainly to the early history of the state or to the youth of modern states.[3]

313. Possible dangers of large area. Expansion, however, must not come too soon. The dispersion of a small population over a wide area has disintegrating results that sap the strength of a state.

[1] Semple, Influences of Geographic Environment, p. 181.
[2] Ripley, Races of Europe, pp. 340–343. [3] Semple, op. cit., pp. 447–465.

The history of the Oriental empires, of the French in America, and of Russia in Asia show the weakness of a too distant horizon. When peoples in a low stage of political development follow the easiest lines of expansion, their internal development often fails to keep pace with their external growth.[1] But when a certain point in political development is reached, expansion is necessary. The large area which dissipates the strength of a primitive people later offers the needed opportunities for a more advanced national life.

314. Present advantages of large area. Other geographic conditions being equal, the larger the area of the state the surer the guarantee of its permanence. A broad geographic base furnishes an abundant food supply and undeveloped resources, the necessary conditions of life and growth. Where physical and economic conditions are similar, the number of inhabitants tends to correspond with the size of the state, and this gives the military advantage of numbers to the larger units. The northern hemisphere, with its larger area and its population five times more numerous than that of the southern, is logically the zone of "greatest historical density." The domination of England in the British Isles and of Prussia in Germany is based, partially at least, upon their broad geographic bases.

315. Military advantages of large area. Large area also serves as a protection, by rendering attack difficult, whereas small areas are easily surrounded. Greece has always been handicapped by its small size and geographic subdivisions. Belgium and Switzerland are separate states only on the sufferance of the great powers who have declared them neutralized.[2] The state that fixes its frontiers without making allowance for future growth limits its development. On the other hand, the advance from a small, self-supporting community to international relations and then to territorial empire breaks down the narrow, secluded clan spirit and makes possible political and cultural progress. The territorial expansion of progressive peoples is both a cause and a result of national growth. It is an accepted mark of national vigor and creates broad views

[1] Mill, Representative Government, chap. xvii.
[2] Moore, International Law Digest, Vol. I, pp. 26–27.

of national life and policy.[1] In the past it was possible for small states, like Athens, Venice, and the Dutch Republic, to be the leaders in civilization and even to wage successful war against larger adversaries. At present great states realize the need of large territory and numerous population. Germany and Japan feel the pressure of narrow frontiers, and their natural ambitions along the line of territorial expansion are among the most powerful influences in the present international situation. Other states, such as the United States, Brazil, the Argentine Republic, and Russia, because of their size, resources, and natural defenses, will unquestionably become far more important in the international politics of the future than they are at the present time.

[1] Emerson, "The Young American," in Nature Addresses and Lectures, pp. 369–371 (Centenary edition).

CHAPTER VIII

AUTHORITY WITHIN THE STATE

I. General Nature of Problem

316. The organization of authority. Having determined the composition and form of the state, that is, the number of individuals who come under its jurisdiction and who form its citizen body, together with the principles upon which membership and citizenship are based, and the area over which the jurisdiction of the state shall extend, the next problem involves the organization of authority within the state. "There is a sense in which the molding of an effective citizenship, imbued with a sense of public as distinguished from private well-being, and capable from time to time of fairly harmonious action, is at once the principal task and the highest reward of government. There is another sense in which the shaping of an efficient mechanism of government is the chief concern of a well-ordered citizenship. In practice the processes are not very distinct from each other, although to some extent they are separable for purposes of discussion. Both processes give rise to groups or successions of political problems." [1]

317. Authority and liberty. The organization of authority within the state involves the fundamental difficulty of political existence, — the nature of the relation between authority and freedom, between sovereignty and liberty, between the state as a unit exercising a certain control over its members and the individuals within the state as distinct personalities with wills of their own, naturally desiring to live and act without interference. Upon a satisfactory adjustment of this relation both individual welfare and state existence depend.[2] Apparently there is an irreconcilable

[1] Shaw, Political Problems of American Development, p. 30.

[2] McKechnie, The State and the Individual, pp. 1–26; Sidgwick, Elements of Politics, chap. xxxi.

contradiction between sovereignty and liberty. If the authority of the state be absolute, how can individual freedom exist? If the individual has liberty, what has become of sovereignty? Sovereignty alone is despotism and destroys liberty, while liberty alone is anarchy and destroys sovereignty. The efforts made by states to reach a satisfactory compromise between these two equally undesirable extremes comprise a large part of the history of politics, and no permanent solution has yet been reached. However, a more careful analysis of individual liberty will show its real nature and prove that, instead of being opposed to sovereignty, it is dependent upon it. In fact, it is possible only if sovereignty exists, and becomes more perfect as sovereignty is more completely organized.[1]

318. Natural rights. In the eighteenth century men spoke much of natural rights.[2] Life, liberty, property, the pursuit of happiness, and other similar privileges were considered inalienable rights under the laws of nature.[3] A condition of perfect liberty, existing before governments arose, was conceived, often with a sigh of regret that this "state of nature" could not last forever. Analysis shows the fallacy in such thinking. In a state of nature liberty would be impossible. Each person would have rights only as he could secure them by force. The natural rights of one would encroach upon the natural rights of others, thus destroying the liberty of all. That every person could have liberty to do as he chose in all things is obviously absurd. The greatest amount of liberty possible is the right to do as one pleases while encroaching least on the wishes of others. This secures the largest amount of liberty for all.[4]

319. Nature of liberty. Liberty in the associated life of mankind has therefore both a positive and a negative side. It includes right to free action and immunity from interference; but in order to maintain such a condition some authority is needed that can set

[1] Burgess, Political Science and Constitutional Law, Vol. I, pp. 55–58; Ritchie, Natural Rights.

[2] For the history and development of natural law, see Scherger, Evolution of Modern Liberty, Part I, pp. 1–86.

[3] See Locke, Two Treatises of Government; Rousseau, The Social Contract; The American Declaration of Independence; The French Declaration of the Rights of Man and Citizen.

[4] Willoughby, Nature of the State, chap. v; Seeley, Introduction to Political Science, Lecture V.

bounds to the liberty of each and enforce the rights of all.[1] The organization that arose for this purpose is the state. It is therefore the only source of real liberty. Since it is sovereign over all, it alone can create and enforce rights and obligations.[2] Its laws are not only limitations on the freedom of individuals, but they are the only guarantees and defenders of individual freedom. Anarchy, instead of creating absolute freedom, would destroy it. Sovereignty and liberty are not contradictory terms, but correlative, — the same thing viewed from different aspects, the former from the state's point of view, the latter from that of the individual.[3]

320. Problems in adjusting authority and liberty. In the detailed adjustment of authority and freedom, two practical difficulties are being met. First, how much authority shall the state exercise? Where shall it draw the line between the acts of individuals which it will regulate or prohibit and those which it will disregard, between its own authority and the freedom of its individual members?[4] Second, by whom shall such authority be exercised? What particular individuals and what machinery of organization shall represent the state in setting limits to the free actions of its members?[5] How many persons shall share in exercising the sovereign power of the state, and what shall be the extent of the powers of each? The evolution of the state exhibits a growing realization of both these problems and a general trend of movement, broken by reactions and changed in direction by new conditions, toward a rational and satisfactory solution. The first problem has been met by the gradual establishment of a field of *civil liberty;* that is, of a sphere of free action within which the individual is guaranteed, by the authority of the state, against interference.[6] The second problem has been met by the gradual development of *political liberty*, that is, of the right of a constantly increasing number of individuals to possess some share of the governing authority of the state, to have

[1] Mill, Essay on Liberty; Lieber, On Civil Liberty and Self-government, chaps. i–iii.

[2] Holland, Elements of Jurisprudence, Part I.

[3] Leacock, Elements of Political Science, pp. 71–75; McKechnie, The State and the Individual, chap. xxii.

[4] McKechnie, op. cit., Part II; Ritchie, Principles of State Interference.

[5] Sidgwick, Elements of Politics, chap. xix.

[6] Scherger, Evolution of Modern Liberty, Parts III–IV.

a legal way of expressing their wishes and of influencing political action.[1] Civil and political liberty are not necessarily found together. Under the Roman Empire, for example, there was little political freedom, while individual rights were, as a rule, ample and well protected. On the contrary, a high degree of political freedom existed among the early Teutons, with a much smaller protection for private rights. It is possible that individual rights may be disregarded in a state with extensive popular government, while an absolute monarchy may establish and protect a wide sphere of civil freedom.[2]

321. Nature of civil liberty. The concept of civil liberty needs further analysis. It includes that sphere of freedom for each individual which the state creates and safeguards against interference at the hands of other individuals and of the government. This compels the state to decide what relations among its members are of sufficient public interest to come under governmental regulation,[3] and to draw up rules by which the free action of all is limited to a certain degree so that the rights of all in the remaining field of activity may be properly safeguarded.[4] It also compels the state to decide what its own relations to its members shall be and where, if at all,[5] the line shall be drawn between the authority that may legally be exercised by its government and the freedom of its individuals from governmental interference.[6] Whatever field is thus set aside to each individual within which, under the protection of law, he may live and act without molestation by individuals or by government is the sphere of civil liberty for that individual. The conditions obtaining at any given time in each state will determine

[1] Scherger, op. cit., Part II; Dealey, Development of the State, Part III.

[2] Lowell, Essays on Government, No. II; Willoughby, Nature of the State, pp. 312–313.

[3] Lee, Historical Jurisprudence, pp. 1–5.

[4] This is the field covered by *private law*, by which the state regulates the relations among individuals. See Holland, Elements of Jurisprudence, Part I, pp. 121–124, and Part II.

[5] The conception of a sphere of civil liberty into which the government may not legally enter is of recent origin. Previous to the rise of the modern states, all authority was located in the government, against which the individual had no legal defense. See Burgess, Political Science and Constitutional Law, Vol. I, pp. 174–177

[6] This is the field covered by *public law*, by which the state regulates its relation to its individuals. See Holland, op. cit., Part III.

what adjustment of authority and freedom the best interests of the state and of its individual members demand.

322. Equality before the law. Civil liberty, as developed in the more advanced states, further includes the conception that, within the field over which the authority of the state is exercised and the freedom of the individual correspondingly limited, all should be on equal terms, or should be "equal before the law."[1] Special rights, privileges, or immunities granted to certain classes or persons, no matter upon what basis such distinctions rest, are necessarily limitations on the liberties of those not so treated. Civil liberty, in its perfect form, therefore, would involve a sphere of individual freedom, created and safeguarded by the state, for each of its members against encroachment at the hands of other individuals and of the government; with the further guarantee of equal treatment for all in such matters as come under governmental authority. By the development of written laws and constitutions, the rights of men against their fellows and against their political machinery have been given a definite and permanent legal form and guarantee. For the arbitrary and uncertain action of primitive political authority has been substituted a more or less certain and uniform regulation of public affairs. By a corresponding development away from the inequalities among men, which early political existence created, an equal status, in some respects at least, before these legal guarantees has been secured for a growing proportion of the state's population. A certain freedom from interference established by law and a relative equality before that law are the results of a long period of political evolution.

323. Problems of political organization. The development of the correlative of individual freedom, political authority, involves not only the determination of the scope of such authority,[2] but also of the nature of its organization. The method by which the will of the state should be expressed and the machinery through which it should be administered have been among the most perplexing problems in political evolution. The nature of governmental organs, the method of their creation, their personnel, their respective powers,

[1] McKechnie, The State and the Individual, chap. xxiii.

[2] See below, Chapter IX.

the relation of central to local organs when the state grew too large for a single organization to exercise jurisdiction over its entire area,[1] the relations between legislative, administrative, and judicial organs when the business of government became too complex for a single organ to undertake its manifold details,[2] — these were among the practical difficulties that arose in the course of governmental development. Of especial importance in political history has been the question of the share of the people in government, that is, the proportion of the entire population that might at any time or in any way exercise political authority, either directly by making their will and their actions those of the state, or indirectly by choosing officials or representatives and influencing or controlling their wills and their actions.[3]

324. Evolution of political liberty. Governing authority, exercised at first by heads of family groups, by priestly representatives of the gods, or by successful leaders in war, and later by special classes based on birth or wealth or occupation, was gradually extended to a considerable number within the state, who, as warriors, taxpayers, or laborers, learned their strength and demanded a voice in determining public policy.[4] Not only equality before a definite law, but also a share in formulating and administering that law was desired. After much strife and many failures, a system of organization by which a fair proportion of the state's members could take part in political activities was developed in certain small and favored regions.[5] For a long time, however, every attempt to extend this system to larger areas failed; and political integration, resulting from conquest or from the growth of common interests, was accompanied by a reversion to the loosely organized, despotic system under which the members of the state were again subordinated to the authority of a narrow and powerful privileged group.

[1] Goodnow, Comparative Administrative Law, Vol. I, Bk. I, chap. vi; Politics and Administration, chap. iii.

[2] Bluntschli, Theory of the State, Bk. VII, chaps. v–vii; Laveleye, Le Gouvernement dans la démocratie, Vol. I, Bk. VII, chap. i.

[3] Sidgwick, Elements of Politics, chap. xxvii.

[4] Wilson, The State, chap. i; Woolsey, Political Science, Vol. II, Part III, chap. vi.

[5] For example, in Athens, and in Rome under the Republic. See Wilson, op. cit., chaps. ii–iii.

Under this form of organization, political stability and political progress were alike impossible. States tended toward despotism or toward anarchy and perished as the result of stagnation, revolution, or conquest.

325. Popular sovereignty. The ideal adjustment of authority and freedom requires a sphere of civil liberty sufficient to secure the individual interests of each citizen, and a governmental organization whose commands are definitely expressed and authoritatively enforced. At the same time there must be a minimum amount of friction between government and citizen in order to maintain the stability of the state. Modern states have met this condition by placing sovereignty and freedom in the same hands. The mass of people are given, not only a sphere of freedom, but also a share in authority.[1] Thus they, directly or indirectly, as government, create the rights and enforce the obligations which they possess as citizens, — in a word, they govern themselves. By a broad electorate, by frequent elections, by the initiative and referendum, and by a system of local self-government, the mass of the people retain a direct share in political power. By combining local self-government in small units with representative government over large units,[2] and by the principle of federation,[3] a workable organization of popular authority, even over the extended area of national states, is secured. To protect the people against hasty prejudices, authority is distributed among many organs, each of which acts as a check upon the unlimited authority of the others.[4] Finally, by written constitutions, usually difficult to change, a greater stability of organization is secured.[5] In this way the more advanced states of the present day reconcile sovereignty and liberty. Political liberty as well as civil liberty is wide in extent, and the conflict between authority and freedom is largely avoided, since rights are self-created and self-enforced.[6]

[1] Maine, Popular Government; Lecky, Democracy and Liberty.

[2] Jellinek, Recht des modernen Staates, Bk. III, chap. xvii; Garner, Introduction to Political Science, pp. 469–488.

[3] Freeman, History of Federal Government; Dicey, Law of the Constitution, chap. iv.

[4] Garner, op. cit., chap. xiii.

[5] Borgeaud, Adoption and Amendment of Constitutions in Europe and America.

[6] Seeley, Introduction to Political Science, Lecture VII.

326. Political readjustment. Frequent readjustments of political organization must, however, be made from time to time as new classes are admitted to political privileges or as new peoples must be educated to a consciousness of their political duties and responsibilities. Adjustment between central and local organs takes place as the area of the state widens or contracts; as interests, formerly narrow, expand and demand more uniform treatment or more powerful regulation;[1] and as new units of political organization come into prominence and create new problems of political organization and function. Of this latter class the recent rise of great cities furnishes the best example.[2] The relation between the people and their representatives and officials may be disturbed by the formation of extralegal associations, such as political parties, which take over the selection of candidates and the shaping of policies;[3] or by the entrance into politics of private or corporate interests powerful enough to exert a control over government.[4] In such cases the people may be compelled to assume a more direct exercise of political power,[5] or to incorporate these private organizations into their regular governmental machinery, or to bring them under governmental regulation. The authority of the state both in its scope and in its structure changes as conditions change in accordance with the general principles of social evolution.

II. Evolution of Civil Liberty

327. Necessity of early despotisms. The primary purpose of the state was the establishment of peace and law among individuals and the maintenance of security against external attack. The first difficult step out of barbarism was secured only by creating a public

[1] For example, railways, interstate commerce, and trusts in the United States. See Burton, Corporations and the State; Goodnow, Social Reform and the Constitution.

[2] Goodnow, Municipal Government; Fairlie, Municipal Administration; Rowe, Problems of City Government.

[3] Ostrogorski, Democracy and the Party System.

[4] Goodnow, Politics and Administration, chaps. vi–viii; Beard, American Government and Politics, pp. 663–672; Senate Reports, 53d Congress, 2d Session, Vol. X, pp. 655 ff.

[5] Beard and Schultz, Documents on the Initiative, Referendum, and Recall.

control so powerful and arbitrary that it left little room for individual freedom.[1] While the actual extent of the authority exercised by primitive government was not large, the rules defining its scope and manner of exercise were indefinite, and no field of individual action was exempt from its possible encroachment. As civilization advanced, this arbitrary and extensive control became irksome. The disposition to obey law and observe order, created by the disciplinary influence of centuries of rigid rules, made it necessary for the state, if it wished to avoid stagnation, to mark out a sphere of free, individual action, narrow at first, within which the government must refrain from interference and must prevent interference from any other quarter.[2]

328. Oriental despotism. In the Oriental empires personal liberty was unknown, the life, actions, and property of all subjects being at the mercy of an all-powerful ruling class. The theocratic element in the state crushed individual will under a universal subjection to divine will; the despotic element in the state vested its whole authority in a government of unlimited power.[3] "At times certain checks upon the exercise of autocratic power may have been attempted, but in almost universal practice the ruler's will knew no hindrances other than those arising from his own feelings of humanity, his self-interest, his religious superstitions, or the knowledge that there were limits to the endurance of even the most submissive of subjects."[4]

329. Greek conception of liberty. The Greeks identified liberty with the right of citizens to share in government, but there was no part of the life of citizens into which the government might not enter.[5] The Greek was primarily a member of the state, which was conceived as having no existence outside the lives of its citizens and having no interests contrary to theirs. The state was the perfect social whole through which the individual developed his highest powers and lived a complete life. It was a sort of universal person composed of the combined personalities of all

[1] Bagehot, Physics and Politics, p. 21.
[2] Burgess, Political Science and Constitutional Law, Vol. I, pp. 86–89.
[3] Maine, Early History of Institutions.
[4] Willoughby, Political Theories of the Ancient World, p. 18.
[5] Lieber, Political Ethics, Bk. II, chap. iii.

its citizens.[1] That the individual could have rights outside the state or could desire a sphere of action free from state control was inconceivable. The individual was completely subordinated to the state, not in a forced subjection to an external power, but in a natural absorption in a higher self in whose life he participated. Public and private rights were, therefore, not distinguished, and civic freedom was impossible.[2]

330. Roman conception of liberty. The Roman jurists first developed the distinction between public and private rights.[3] The citizen was viewed as having definite rights and as possessing a sphere of freedom not to be interfered with by other citizens or by the state itself. Individual and state were separated, having reciprocal rights and duties; and the main purpose of the state was the establishment and protection of the private rights of its individuals.[4] In Roman political thinking, however, the state was identified with the aggregate of its citizens, no distinction being made between the state as an entity apart from its citizens nor between the will of the state and the will of the people. The only liberty that the Roman thought of was that of protection in the exercise of those rights which the law defined.[5] The individualistic conception of civil liberty as a field of natural rights possessed by the individual as such was never developed, and in actual practice the individual was left very much at the mercy of the state, whose regulations entered into almost every phase of his life.[6]

331. Liberty in the Middle Ages. The distinction between public and private rights, worked out by Rome, was destroyed in the Middle Ages by the system of feudalism, which associated the exercise of sovereignty with the possession of property. The holding of land carried with it jurisdiction over those living upon the land.[7] The state as a legal organization no longer existed, and government was regarded, not as a public authority, but as a private possession. Rights and duties were based upon contract between

[1] Dunning, Political Theories: Ancient and Medieval, chaps. i–iii.
[2] Willoughby, op. cit., pp. 54–65. [3] Justinian, Institutes, I, 1, 4.
[4] Willoughby, op. cit., pp. 215–217.
[5] Dunning, op. cit., pp. 106–129; Willoughby, op. cit., pp. 215–244.
[6] Laboulaye, L'État et ses limites, pp. 7–17.
[7] Wilson, The State, chap. v.

lord and vassal or between master and serf, and were founded upon personal, not political, relations.[1] Liberty existed only as exemptions from burdens or duties, secured separately by certain classes or places. In the confused and tyrannical jurisdictions of church and state, and in the complete subjection of the mass of serfs, any clear conception of civil liberty, except for the privileged classes, was impossible; although the foundations for modern personal freedom were being laid through the teachings of Christianity and the individualistic ideals of the Teutonic conquerors.[2]

332. Christianity and civil liberty. Christianity differed from the ancient religions in that it had no necessary relation to the state. It appealed to the individual as a man, not to the citizen obeying a government supported by divine sanction; and to the individuals of all the world, not to the members of a single group held together by a narrow common worship.[3] It also emphasized obedience to God rather than to man; hence the support that states and their governments received from the earlier state religions was removed. For a time during the Middle Ages the Christian church, extending its doctrines by force, became an instrument of oppression.[4] Freedom of thought was extinguished and heresy treated as the greatest of crimes. The Protestant Reformation of the sixteenth century, however, attacked the principle of authority,[5] demanded freedom of conscience, and led gradually to a religious toleration that aided the growing conception that there might exist a sphere of individual rights within which interference from any external source should not be tolerated.[6]

333. Teutonic ideals of liberty. In striking contrast to the Roman emphasis on the sovereignty of the state, the Teutonic barbarians, who overthrew the Roman Empire, believed in the freedom of the individual. They chose their own chiefs and

[1] Scherger, Evolution of Modern Liberty, pp. 2, 34–37.

[2] Lieber, On Civil Liberty, pp. 32–36; Wilson, The State, pp. 583–585.

[3] Scherger, op. cit., pp. 3–4.

[4] Lea, History of the Inquisition of the Middle Ages, Vol. I, chap. i; Robinson, History of Western Europe, pp. 201–225.

[5] Fisher, History of the Reformation, chap. i; Guizot, History of Civilization, Lecture XII.

[6] Merriam, American Political Theories, chap. i; Dunning, Political Theories: From Luther to Montesquieu, chaps. i, vii.

resisted all authority that was not self-imposed;[1] they disliked city life; they opposed the payment of taxes as being suggestive of subservience. The individualistic anarchy of feudalism and the individualistic religious spirit exhibited in the Protestant Reformation were manifestations of the Teutonic genius; and our modern liberty is primarily their contribution to political development.[2]

334. Natural rights. Of even greater importance, perhaps, was the influence of the theory of natural law and natural rights, which reached its highest development at the time when modern civil liberty was being established.[3] The conception that the source of law was in nature and in reason, rather than in the authority of a humanly established public organization, and that the individual possessed certain absolute, natural, and inalienable rights to life, liberty, property, the pursuit of happiness, etc., which were antecedent to the formation of the state,[4] led logically to the idea that the chief duty of the state was to define and protect these rights against interference at the hands of individuals and of government. This theory, one of the oldest and most powerful conceptions in the history of human thought, originated in early Greek philosophy, passed into Roman jurisprudence, thence into the literature of the Middle Ages, was given prominence in the writings of the ecclesiastics who opposed the Reformation, was worked into a system by Grotius, Pufendorf, and Locke in the seventeenth century, and, during the eighteenth and nineteenth centuries, in the teachings of Wolff, Montesquieu, Voltaire, Rousseau, Blackstone, Samuel Adams, Madison, and Jefferson, served as the theoretical basis of revolution[5] and as the creed of modern liberty and democracy.[6] A parallel reaction against the paternalism of the despotic monarchies of the eighteenth century and a desire to limit to a minimum the state's interference in the lives of individuals were

[1] Tacitus, Germania, cc. 11–12.

[2] Laurent, Études sur l'histoire de l'humanité.

[3] Pulszky, Theory of Law and Civil Society, pp. 77–83; Taylor, The Medieval Mind, Vol. II, chap. xxxiii; Ritchie, Natural Rights, chap. v; Bryce, Studies in History and Jurisprudence, pp. 546–606.

[4] Willoughby, Nature of the State, pp. 89–115.

[5] Merriam, op. cit., chap. ii.

[6] Scherger, op. cit., Part I; Dunning, Political Theories, Index, "Natural Law" and "Natural Rights."

represented in the writings of Kant, Fichte,[1] Humboldt, Laboulaye, Leroy-Beaulieu, Mill, and Spencer.

335. Civil liberty in the national state. An additional aid to the reëstablishment of the distinction between public and private rights and to the creation of a sphere of civil liberty were the destruction of feudalism and the formation of national states. In the small areas of the ancient city states and of the medieval feudal groups, the control of the community over the individual was almost absolute; but as the extent of territory and the number of inhabitants increased, the control of the state over its citizens was likely to diminish. The impossibility of all taking direct part in government and the necessity or delegating authority to a few made more evident the distinction between people and government, and gave rise to the idea of a sphere of individual interests apart from those of the people as a whole. That is, the very conditions which until recently tended to destroy *political* liberty furnished the opportunity for the establishment of *civil* liberty. It was, accordingly, in the Roman Empire that the idea of private rights first arose; and it was in England, the state in which feudalism had least hold and in which a national spirit and a national organization were first developed, that modern civil liberty originated.[2]

336. Civil liberty in England. Magna Charta, the Habeas Corpus Act, the Petition of Right, and the Bill of Rights are examples of declarations of popular rights drawn up by Englishmen during the course of their political evolution.[3] The development of the principles of civil liberty in England was not so much the result of abstract conceptions of natural rights as it was of an attempt of the English nobility and people, working in harmony, to weaken the prerogatives of the English king, the strongest and therefore the most dangerous power in the state, to secure redress against certain specific grievances, and to obtain a guarantee for the possession of privileges which experience showed most necessary to individual development.[4]

[1] In his later writings, Fichte modified his earlier individualistic views. See his Der geschlossene Handelsstaat.

[2] Wilson, The State, pp. 557–560; Lieber, On Civil Liberty, chap. v.

[3] Hill, Liberty Documents, chaps. i–x.

[4] Ogg, Governments of Europe, chaps. i–ii; Medley, English Constitutional History, chap. ix.

337. Civil liberty in the American colonies. The ideas of civil liberty known as the fundamental rights of Englishmen were brought to America by the early settlers,[1] many of whom represented that element in England most interested in the maintenance of such rights;[2] and under the favorable conditions existing in the new environment and aided by a prevalent belief in the theory of natural rights, these principles received a further development and a more direct application in practical politics.[3] The people of the American colonies, Massachusetts and Virginia taking the lead, drew up declarations of rights which they claimed to possess as men.[4] These declarations, later called "bills of rights," were also prefixed to the state constitutions drawn up during the Revolutionary period; and the new idea of incorporating such statements into political programs and into the fundamental written documents by which the organization and functions of government were prescribed was thus added. This idea spread to France during the French Revolution, and the Declaration of the Rights of Man and of Citizen, drawn up by the National Assembly in 1789 and prefixed to the constitution of 1791, was of enormous importance in the evolution of civil liberty on the continent.[5] A concise and well-stated bill of rights was added, in the form of ten amendments, to the Constitution of the United States in 1791;[6] and the Parliament of Frankfurt, which attempted prematurely to form

[1] The charter granted by James I to the London Company in 1606 contained the following guarantee:

> Also, we do, for us, our heirs, and successors, declare, by these presents, that all and every the persons, being our subjects, which shall dwell and inhabit within every and any of the said several colonies and plantations, and every of their children, which shall happen to be born within any of the limits and precincts of the said several colonies and plantations, shall have and enjoy all liberties, franchises and immunities within any of our other dominions, to all intents and purposes, as if they had been abiding and born, within this our realm of England or any other of our said dominions.

See MacDonald, Select Charters, p. 8.

[2] Merriam, American Political Theories, chap. i.

[3] Hart, Actual Government, pp. 21–30; Ford, Rise and Growth of American Politics, chaps. i–ii.

[4] Scherger, Evolution of Modern Liberty, Part III; Hill, op. cit., chap. xiii.

[5] Anderson, Constitutions and Documents, No. 15; Scherger, op. cit., Part IV.

[6] Burgess, Political Science and Constitutional Law, pp. 184–252; Ames, Proposed Amendments to the Constitution of the United States, pp. 183 ff.; Beard, American Government and Politics, pp. 63–65.

a united Germany,[1] drew up a declaration of fundamental rights in 1849. The constitutions of many states now contain similar guarantees of civil liberty.

338. Present conception of civil liberty. The theory of natural rights, one of the most potent factors in the creation of modern liberty, is no longer held.[2] The state is now considered the sole source of individual rights, the only creator and protector of civil liberty. The individualism that considered the state a necessary evil, whose activities should be restricted to the narrowest limits, is also abandoned, and the liberty of the individual is in many ways being diminished by the expansion of governmental interference. The idea that it is the duty of the state to increase the general welfare of its people by public action, even though such action may narrow the freedom of its individual members, now holds sway.[3] A considerable sphere of civil freedom, nevertheless, remains to the individual. While the elements of individual liberty are not identical in all states[4] and the constitutional guarantees against governmental encroachment show considerable variation, a fair degree of uniformity has been reached in the sphere set apart for free action by leading modern states. The elements of civil liberty are more generally and uniformly recognized than the elements of political rights. The rights of the individual to freedom of the person, equality before the law, security of private property, freedom of opinion and of its expression, and freedom of conscience are among the rights[5] generally recognized and fairly well safeguarded.

339. Evolution of legal equality. Equality before the law has been secured with great difficulty and is still somewhat relative in nature. In ancient times the general principle that rights were possessed only by members of the narrow tribal groups and that

[1] Hazen, Europe since 1815, pp. 183–185; Henderson, Short History of Germany, Vol. II, pp. 352–369.

[2] Ritchie, Natural Rights; Willoughby, Nature of the State, pp. 103–118.

[3] Dealey, Development of the State, pp. 291–293.

[4] Compare the bill of rights contained in Articles 62–79 of the Russian Constitution of 1906 with the first ten amendments to the American Constitution. See Jahrbuch des öffentlichen Rechts, Vol. II (1908), pp. 423 ff.

[5] On the evolution of religious liberty and liberty of the press in England, see Taswell-Langmead, English Constitutional History, pp. 587–605.

no obligations were owed to aliens or strangers, together with the universal prevalence of slavery, which removed a numerous class from the possession of civil rights, prevented any degree of equality. The class distinctions of feudalism, the different legal status of noble, freeman, and serf,[1] and the right of the clergy to be tried under separate law in their own courts[2] likewise destroyed this phase of civil liberty. Only in the modern state, in which slavery and serfdom have been abolished, in which aliens are granted practically the same civil rights as citizens, and in which class distinctions, in so far as they affect legal status, have been largely destroyed, is the principle of equality conceivable. Absolute equality is, however, as impossible of obtainment as absolute liberty. Inequality is a law of nature, and equality before the law merely means that the state will apply impartially such law as exists. It does not imply that the law itself is just or that any degree of equality among individuals is secured by the application of the law. The degree to which it is possible or desirable for the state to secure physical, intellectual, moral, social, and economic equality among its citizens opens up many difficult questions.[3]

III. Organization of Authority

340. Nature of problem. The organization of authority within the state involves the broad problem of the nature and make-up of governmental machinery. The will of the state must be formulated and administered by some of its members, who are selected according to some principle or method, who are grouped into a system of political organs with various duties and powers, and who are authorized to act in the name of the state.[4] In the historical development of government, two general lines of evolution may be traced.

[1] Emerton, Introduction to the Middle Ages, pp. 80, 88.

[2] Lee, Historical Jurisprudence, chap. xii; Emerton, Medieval Europe, pp. 582–592.

[3] McKechnie, The State and the Individual, chap. xxvi; Spargo and Arner, Elements of Socialism, pp. 207–211.

[4] Dealey, op. cit., pp. 127–145; Jellinek, Recht des modernen Staates, pp. 152–155.

341. Extension of political authority of the people. In the first place, a constantly increasing proportion of the state's population has secured a share, and a growing share, in the exercise of political authority. In early states large numbers of individuals, occupying the position of slaves, serfs, aliens, or unprivileged classes, had no voice in the management of public affairs.[1] Even within the active citizen class, governing power was concentrated in the hands of a few, upon whose actions little influence could be exerted and few effective checks placed.[2] In modern states political power is widely distributed. A fair proportion of the entire membership of the state shares, at least in a small degree, in the direct exercise of governing authority, and the organs that carry on the ordinary business of the state show extensive subdivision according to function performed and to area of jurisdiction, so that a considerable number of citizens devote their entire time to public service.[3] Among these organs power is distributed in such a way as to prevent any from becoming tyrannical;[4] and over the whole, through elections, referendums, party policies, and public opinion, the influence, direct or indirect, of the general citizen body is constantly exerted.[5]

342. Extension of popular government over large areas. In the second place, the system of popular government has been applied over constantly widening areas.[6] The first attempts to extend political power to any considerable proportion of the state's membership were workable only in small areas. Direct participation in a general assembly seemed the only practicable method of self-government;[7] and territorial expansion or the incorporation of additional population broke down the principle of popular control

[1] Bluntschli, Theory of the State, Bk. II, chaps. vii–xviii.

[2] Ibid. Bk. VI, chaps. vi–xix.

[3] Even in the city state of Athens it is estimated that in the time of Pericles (444–429 B.C.) no less than twenty thousand Athenians found employment in the service of the city as soldiers, jurymen, councilors, or magistrates. See Wilson, The State, p. 83. The federal government of the United States demands the services of about three hundred fifty thousand persons in its administrative departments alone. See Beard, American Government and Politics, p. 223.

[4] Montesquieu, Spirit of the Laws, Bk. XI, chap. iv; Blackstone, Commentaries, Bk. I, chap. ii.

[5] Dealey, Development of the State, pp. 220–230.

[6] Cooley, Social Organization, chap. xi.

[7] Wilson, op. cit., pp. 64–85, 91–113.

and caused a reversion to the earlier despotic systems in which certain classes within the state or the peoples in certain parts of the state were excluded from any participation in politics.[1] Modern states, by extending citizenship to all classes, by establishing a wide electorate, by the devices of representation, local self-government, and federation, by the adoption of written constitutions, and by the formation of national political parties, have worked out a system of governmental organization within which popular government may be maintained, regardless of the size of the state.[2]

343. Factors contributing to political liberty. It is at once obvious that certain changes in other factors of human evolution were largely responsible for these developments, and that any premature attempt to extend political rights among the people[3] or to extend a system of popular government over too large an area would be dangerous to political stability and progress. A considerable degree of intelligence and of political consciousness among the masses must exist before they can secure for themselves or can safely be intrusted with political power. As long as slavery, serfdom, or systems of caste sharply divided the population, as long as priests controlled knowledge and tyrannized over men's minds through superstitious fear, as long as the accident of birth bestowed governing authority upon a group of nobility, and as long as a military class monopolized force through their control of arms and organization, no widespread and equable distribution of governmental authority was possible. Theocracies and despotisms, based upon fear and force, were perhaps needed at first to tame the anarchistic nature of primitive man; but in the evolution of the state, progress has been secured by the gradual destruction of those once useful systems.[4] Whatever tended to break down the rigidity of the old organizations, to attack the sanctions upon which their authority rested, or to destroy the inequalities and class distinctions among their individuals aided the rise of popular sovereignty.

[1] For example, in the Hellenic world under Alexander and in the Roman Empire. See Mahaffy, Story of Alexander's Empire, chaps. i–iv; Wilson, op. cit., pp. 113–137.

[2] Garner, Introduction to Political Science, pp. 219–230; Laveleye, Gouvernement dans la démocratie; Dealey, op. cit., chap. xv.

[3] For example, in France at the time of the Revolution. See Brownell, French Traits, chap. ix.

[4] Bagehot, Physics and Politics, chaps. v–vi.

The gradual diffusion of intelligence and of wealth, the rise of intellectual and religious freedom and of economic opportunity, the emancipation of the individual in other respects, were naturally accompanied by dissatisfaction with a political system monopolized by the few, and led to the gradual extension of political privileges to the masses.[1]

344. Democratic development not continuous. Many forces contributed to this process, which shows by no means a uniform and continuous development. Elements valuable in destroying the surviving traces of earlier tyrannies created new ones of their own. Thus Christianity, an important factor in the ultimate establishment of modern popular sovereignty,[2] created a powerful privileged class in the medieval clergy,[3] and until recently upheld absolute monarchy by its theory of the divine right of kings.[4] So the rise of modern industry and trade, of a money economy and a capitalistic method of production,[5] valuable in destroying the narrow feudal régime and in elevating the serfs to the position of free laborers and tenants,[6] has resulted in an industrial tyranny of capital over labor and in the rise of a new class consciousness and class hatred that is one of the chief dangers in modern democracies.[7]

345. Democratic progress through tyrannies. Similarly, the first efforts of the people to seize political power usually resulted in the substitution of one form of tyranny for another. Established political authority could be successfully attacked and overthrown by the masses only in proportion as they were able to work together, to organize, to follow leadership. Unorganized mobs or local riots never accomplished a great revolution. But in proportion as the people organized to accomplish successfully their purposes, they placed themselves under the control of the leaders of their

[1] Cleveland, Growth of Democracy; Borgeaud, Rise of Modern Democracy.

[2] Scherger, Evolution of Modern Liberty, pp. 89–147; Laurent, Études sur l'histoire de l'humanité, Vol. IV, chap. iii.

[3] Emerton, Medieval Europe, chap. xvi; Robinson, History of Western Europe, chap. xvi; Prevost, L'Église et les campagnes au moyen âge.

[4] Figgis, Theory of the Divine Right of Kings.

[5] Hobson, Evolution of Modern Capitalism.

[6] Cunningham, Western Civilization: Modern Times, Bk. VI.

[7] Ghent, Mass and Class; London, War of the Classes; Kautsky, The Class Struggle.

organization. Aristocracy usually gave way to democracy through the intermediate stage of a dictatorship. Oligarchy in Athens was followed by the tyrants before democracy was secured.[1] As the aristocratic control of the feudal nobility and clergy weakened, the people of the rising national states did not at once secure control of their governments. Several centuries of absolute monarchy came first.[2] Cromwell in England and Napoleon in France obtained their enormous powers as leaders of popular uprisings directed against the rule of privileged groups. In all these cases, however, what appeared retrogression toward despotic authority was in reality a natural stage in the evolution of popular government. The authority of the new rulers rested upon the people by whose aid it was secured. Its concentration in the hands of a single person made it easier to recognize and to attack; and the gradual process by which self-government was finally secured through a peaceful and legal adjustment was hastened by the temporary authority of the dictator created by the original revolutionary movement.

346. Factors contributing to territorial expansion of democracy. Similarly, the extension of popular government over large areas was made possible, not only by the application of certain devices of government, — elections, representation, and the like, — but even more by improvements in the means of communication and transportation, which broke down the narrowness and isolation of earlier political units. The invention of printing,[3] the building of railroads and of steamships, the laying of telegraph and cable lines,[4] and the use of machinery in a large-scale production, which draws raw materials from widely scattered sources, which assembles many persons in factories and towns,[5] and which seeks markets in all parts of the world, — these were potent factors in the development of national

[1] Mahaffy, Problems in Greek History, pp. 78–86; Greenidge, Greek Constitutional History, pp. 27–35.

[2] Stephens, Syllabus of Lectures on Modern European History, Lecture LXI; Robinson and Beard, Development of Modern Europe, Vol. I, chap. x.

[3] Whitcomb, History of Modern Europe, pp. 28–29; De Vinne, Invention of Printing.

[4] Samuelson, Civilization of our Day, pp. 91–138; Robinson and Beard, op. cit., Vol. II, pp. 318–328.

[5] Hobson, op. cit., chap. xvii; Robinson and Beard, op. cit., Vol. II, chap. xviii; Rowe, Problems of City Government, chaps. i–v.

democracies. In all large states established prior to the last few centuries, any weakening of the despotic authority of their rulers or any attempts to permit self-government were followed by revolts and political disintegration as the particularistic interests, far more powerful than any common interests, manifested themselves. Even as late as the eighteenth century, Montesquieu held that republican government is appropriate only to small territories; monarchic government, to territory of modern extent; and despotism, to very great regions; and that expansion is fatal to self-government.[1] At present, with an economic system of production and distribution that unites vast numbers and widespread areas into a complicated system of interdependence, and with the means for diffusing common ideas and creating a common public opinion over almost unlimited areas, political consciousness rests on a broad basis and in some respects is practically world-wide.[2]

347. Limitations upon democracy. In both the extension of a share in governmental authority to all classes within the state and the extension of popular government over large areas, compromises are demanded, there being at any given time in each state a point of diminishing political returns beyond which it is not safe to widen democracy within or to expand democracy without. Efficiency in administration and consistency and far-sightedness in governmental policy may often be better secured in a government controlled by a small, aristocratic, and public-spirited class[3] than in a democracy with its extravagance, prejudices, and waves of emotional public sentiment.[4] Against the efficiency of government by the select and experienced few must be placed, however, the political education and the leveling upward that result from popular control of government.[5] Besides, in an aristocratic system,[6] even if the class in

[1] Spirit of the Laws, Bk. VIII, chaps. xvi–xx. Montesquieu believed, however, that a federation of small republics might solve the difficulty. Ibid. Bk. IX, chap. i. See also Jellinek, Recht des modernen Staates, p. 74; Mill, Representative Government, chap. xvii.

[2] For a brilliant study of the connection between the formation of an economic surplus and the rise of democracy, see Weyl, The New Democracy, chap. xiii.

[3] Bagehot, English Constitution, pp. 260–266.

[4] Maine, Popular Government; Lilly, First Principles in Politics, pp. 181–183.

[5] Garner, Introduction to Political Science, pp. 197–200.

[6] De Parieu, Principes de la science politique, chap. iii.

control refrains from using its power deliberately for its own advantage, the masses dread authority in which they have no share,[1] and have little of that enthusiastic national spirit, that interest in public affairs, and that voluntary respect for law and order that are found in self-governed communities and that stable and satisfactory political life requires.

348. Compromises needed. Hence, depending upon conditions in each state and upon the relative importance of efficient government, which would exclude many from participation, and of the creation of an intelligent and interested citizen body who, through many mistakes, are learning self-government, each state must determine the proportion of its population who may share in government and the amount of the share of each. In the same way, the efficiency of a centralized, bureaucratic system in governing large areas must be set against the deadening influence of routine, the danger of revolt, the disregard of local differences, and the lack of patriotism in the provinces which can be remedied only by extending popular government even into the remote parts of the largest empires.[2] Here again the degree of intelligence among the various parts of the population and the relative need for efficient administration and for political education must determine the adjustment.[3]

349. Summary. The historical evolution of government, therefore, after authority was once established and peace, order, and safety were secured under law, was largely occupied with the problems of extending a share in government to as many as possible

[1] It is a significant fact that individualism was associated with democracy when government was controlled by the few and that socialism is associated with democracy now that government is in the hands of the many. The expansion of political liberty has thus fundamentally modified the conception of the proper extent of civil liberty.

[2] Block, Dictionnaire de la politique, Vol. I, pp. 271–275; Mill, op. cit., pp. 109 ff. (Universal Library edition); Toulmin-Smith, Local Government, pp. 12, 20.

[3] For example, compare the efficiency of the Dutch administration in Java, in which the native population takes no part, with the policy of the United States to educate the inhabitants of the Philippines in self-government by extending to them a share in authority even before they are fitted to exercise it. See Day, The Dutch in Java; Willoughby, Territories and Dependencies of the United States, chaps. vi–viii; Congressional Record, Vol. XXXIV, Part I, pp. 8 ff.

within the state and to extending this ideal, with necessary modifications in the form of its organization, over as large an area as possible. Some of the important stages in this process may be broadly outlined as follows.

350. Authority in the Oriental empires. Political organization, more or less distinct from religious and family systems, first emerged in the great Oriental empires which history exhibits as the early homes of civilization. In these states abundant population and frequent conquests created a superabundance of labor, a large servile class, and wide differences in social and economic status.[1] The exercise of governmental authority was concentrated under the control of monarchs, aided by small groups of autocratic officials and powerful priests. The connection between religion and politics led to rigid custom and unprogressive policy.[2] Based on conquest, with no common interests uniting their diverse peoples, these loosely organized empires had no real solidarity and fell apart whenever the power of the ruling dynasty declined.[3] Each province retained its own language, customs, and religion; and the ruler of each province, whether a conquered and tribute-paying king or a satrap representing the central despotism, was frequently tempted to revolt.[4] Governmental authority, based on fear, represented to the peoples of these states only the slave driver and the tax collector. Neither unity in the state nor a share in government for the individual was possible under such conditions.

351. Authority in the Greek city states. In striking contrast to the organization of authority in the widespread empires of the Orient was that in the compact city states that arose in the mountain valleys of Europe and on the islands of the Mediterranean. These cities were confederations of kinship clans, and the chief sanction of social order was religion, controlled by the heads of the clans.[5] Government at first rested in a council of clan elders,

[1] Perris, War and Peace, chap. ii; Cunningham, Western Civilization: Ancient Times, Bk. I, chap. i. [2] Bluntschli, Theory of the State, Bk. VI, chap. vi.

[3] Maspero, Struggle of the Nations.

[4] West, Ancient History, pp. 70–73; Wheeler, Alexander the Great, pp. 187–207.

[5] Fowler, City State of the Greeks and Romans, chap. ii; De Coulanges, The Ancient City, Bk. III.

presided over by a patriarchal king ;[1] and an assembly of the people, that is, of the recognized members of the religio-kinship groups, expressed freely their approval or disapproval of the plans submitted by the elders.[2] A series of changes, however, later subordinated the organization and authority of the family groups to that of the city as the fundamental social unit ; and political institutions based upon the earlier system grew more distinct and more authoritative as the family organization disintegrated. While the political development of these cities was by no means uniform, Sparta, for example, because of the conditions of her origin and situation, exhibiting a singularly stable system quite unlike that of her neighbors,[3] a general view of the typical process may be had.[4]

352. Democratic development in the city states. The duties of the king were divided among a board of magistrates, the hereditary principle and life tenure were abolished, and election for short terms at the hands of a widening electorate became the method of choice.[5] Eligibility to office, at first limited to certain families or to those of noble blood, also tended to become universal. By a series of reforms the privileges of the original narrow citizen class were diminished, and the various classes within the state, excluding of course the slaves, were admitted to some share in active citizenship. In some cases the original tribes and clans were broken up and replaced by artificial units of administration.[6] Written laws were secured, making the customs formerly controlled by the few definite and public ; and property, rather than birth, gave political advantages.[7] The earlier council of clan elders was replaced by a larger body, such as the Council of Four Hundred, instituted by Draco in Athens, or the Senate in republican Rome ; and

[1] Bluntschli, op. cit., Bk. VI, chap. viii.

[2] Wilson, The State, pp. 26–34 ; Fowler, op. cit., chap. iii.

[3] Wilson, op. cit., pp. 54–64 ; Bluntschli, op. cit., Bk. VI, chap. xvii.

[4] Fowler, op. cit., chaps. iv–vi ; De Coulanges, op. cit., Bk. IV ; Wilson, op. cit., pp. 64–87.

[5] For example, the archons, who assisted the Athenian kings, were at first chosen for life ; later, for ten years ; finally, annually.

[6] Grote, History of Greece, chap. xxxi ; Gilbert, Greek Constitutional Antiquities, pp. 145–153.

[7] Economic changes were largely responsible for many political reforms, especially those of Solon in Athens and of the Gracchi in Rome. See Wilson, op. cit., pp. 69–71, 122–124.

an assembly composed of all citizens finally secured the right to initiate as well as to assent in lawmaking.[1] The administration of justice was also popularized,[2] and in Athens the device of *ostracism*[3] was added, by which the new democracy could protect itself against demagogues or against any who threatened to become too powerful.

353. Territorial limitations of early democracy. This democracy, adapted to the city state, was effective only over small areas; popular government meant the direct share of every citizen in a general lawmaking assembly.[4] Each city, allowing much liberty and large powers of self-government to its own citizens, developed an intense, patriotic life, regarding neighboring cities as enemies; and the perfection of democracy in each city intensified jealousies among the cities. Lack of unity was the chief weakness in the Greek political system. While a sense of nationality, resting upon a common Hellenic blood, common traditions, and common religion and civilization, pervaded the Greek cities of the ancient Mediterranean world, their inbred political habits and their wide geographical extension prevented every movement toward national governmental union.[5] Self-government and individual liberty were developed on a local scale, but the remainder of the world was not yet ready for democracy, much in the way of authority and organization first being needed. This unity was secured by Macedon and Rome at the expense of democracy, and the work necessary for modern civilization destroyed temporarily the Greek contribution to politics.

354. Authority in early Rome. The earlier internal development of Rome showed the same tendencies as the Greek city states, although military efficiency was chiefly aimed at in many of the administrative changes; and the Roman constitution was altered with less revolutionary abruptness than in Greece.[6] King,

[1] Gilbert, Greek Constitutional Antiquities, pp. 285–310.

[2] Ibid. pp. 376–415.

[3] Oman, History of Greece, pp. 159–161.

[4] Bluntschli, Theory of the State, Bk. VI, chaps. xx–xxi.

[5] After the break-up of Alexander's empire, the Greek cities did unite in advanced forms of confederation, but these soon fell before Roman expansion. See Holm, History of Greece, Vol. IV.

[6] Bryce, Studies in History and Jurisprudence, Essays XIV–XV; Fowler, City State of the Greeks and Romans, chap. vii.

council, and assembly grew out of the patriarchal family organization ;[1] monarchy was replaced by aristocracy,[2] as consuls, prætors, and senate divided governing powers; and a strong movement toward democracy was indicated by the widening of the assemblies and the increased privileges of the plebeians.[3] Before this tendency toward a democratic, compact city state could be carried to its logical conclusion, a new series of events changed the whole course of Roman development, and resulted in a new type of governmental organization and in several important contributions to politics.

355. Expansion fatal to democratic beginnings. Rome's career of conquest and expansion demanded the extension of government over large areas and the teaching of political civilization to fresh, vigorous, but barbarous peoples.[4] The city-state constitution broke down when applied to a wide empire, and the tendency toward democracy was checked by the need for a vigorous, consistent policy in dealing with peoples in all parts of the earth.[5] It was impossible to control the magistrates who governed the provinces, nominally as servants of the people of Rome, without giving the provincials a share in the government; but it was impossible to give the provincials part in a system that knew nothing of representative assemblies and consequently nothing of citizenship except in the form of privileges which could be exercised only in Rome itself. Real power fell into the hands of the army, which alone could control the provinces, and of the mob at Rome, who alone exercised political rights; and the attempts of various leaders to control one or both of these established a selfish and corrupt oligarchy and finally resulted in the series of civil wars that marked the end of the republic.[6]

356. Establishment of the Roman Empire. Empire was the inevitable outcome of such conditions.[7] Concentration of authority, uniformity of law, centralized organization, — these were needed to

[1] Abbott, Roman Political Institutions, Part I. [2] Ibid. Part II.
[3] Wilson, The State, pp. 91–120.
[4] Kingsley, The Roman and the Teuton, chap. i; Tacitus, Germania.
[5] De Coulanges, Ancient City, Bk. V.
[6] Fowler, op. cit., chap. viii; West, Ancient History, pp. 340–386.
[7] Wilson, op. cit., pp. 120–140; Abbott, op. cit., Part III, chaps. xii–xvi.

bind the wide domain of Rome into a state and to secure order throughout her realms.[1] While retaining for a time the old forms of popular government, actual authority centered in the emperor, who became the state personified.[2] A new and complex official organization dependent upon the emperor gradually developed.[3] The city of Rome was leveled with the provinces, the empire was looked upon as a whole, and the departments of administration, each organized into a hierarchy of officials, were all made responsible to a single head. To provide against military adventurers, civil and military functions were separated. Subordinate officials of all kinds throughout the provinces multiplied.[4] The household officers of the emperor grew into state officers, each the head of an extensive system;[5] the forms of monarchy, with the characteristic trappings of the Oriental court, were introduced; and the last traces of republican institutions disappeared. To divide the burdens of administration, two capitals, one at Rome and one at Constantinople, were established, and two emperors for a time ruled jointly, each the head of a systematic hierarchy. Later this division became complete, the West falling under the Teutonic barbarians in the fifth century, the East surviving until overthrown by the Turks in the fifteenth century.

357. The perfection of centralized despotism. The final result of Roman political development, therefore, was a centralized bureaucratic despotism, a vast, highly complex machine, effective in preserving order, but fatal to self-government and, in the end, to unity.[6] Universal enfranchisement logically followed, since all were citizens where all were subjects; but citizenship gave no voice in the government. Political liberty ceased to exist. To secure authority, individual freedom was sacrificed; local self-government disappeared as centralized administration grew. Rome's system made

[1] Gibbon, Decline and Fall of the Roman Empire, Vol. I, chap. ii.

[2] Bury, Students' Roman Empire, pp. 12–38, 165–166, 509–515.

[3] Abbott, Roman Political Institutions, Part III, chaps. xvii–xxi.

[4] Arnold, Roman Provincial Administration.

[5] The development of governmental machinery from the organization of the royal household has taken place several times, notably in the empire of Charlemagne and in medieval England. The departments developed in Rome have influenced all modern cabinets.

[6] Bury, Later Roman Empire, Bk. I, chap. iv.

no provision for political education; the mass of the population had no interest in a government in which they had no share; no place existed for local independence or for self-direction. In perfecting effective administration and uniform law over large area,[1] Rome contributed much of permanent value to political evolution,[2] but in so doing she destroyed the beginnings of political liberty and again concentrated governing power in the hands of a narrow group within the state.

358. Authority among the early Teutons. When the Roman Empire in the West fell before the Teutonic barbarians, government was again organized within local units. The undeveloped economic life of the period,[3] making land the only important form of wealth, as well as the political system that developed as Roman and Teutonic institutions mingled, prevented wide dominion.[4] Before entering the Roman world, the Teutons had lived in tribal villages. Chiefs, elected in village meeting, acted as magistrates, but important questions were determined by general assemblies of the freemen.[5] Each village managed its own affairs, though frequently uniting with other villages, especially in war. War leaders were chosen for personal prowess and frequently gathered round themselves groups of military companions bound by ties of close personal allegiance.[6] In contrast to the subordination of the Roman citizen to the state, the Teutons were intensely individualistic; and their idea of authority, in contrast to the centralized despotism of Rome, was personal in nature and local in scope.[7] They, therefore, brought into the Roman world the ideals and the governmental methods upon which self-government could again be based.[8]

359. Authority in the feudal state. The migrations of the Teutons emphasized the bonds of personal allegiance and increased the powers of the leaders, although they tended to destroy the

[1] Morey, Outlines of Roman Law, Part I. [2] Wilson, The State, chap. iv.

[3] Day, History of Commerce, chaps. v–ix; Forrest, Development of Western Civilization, chap. iii.

[4] Emerton, Introduction to the Middle Ages, chap. xv.

[5] Henderson, Short History of Germany, Vol. I, chap. i; Gibbon, op. cit., Vol. I, chap. ix.

[6] Bémont and Monod, Medieval Europe, chap. ii.

[7] Wilson, op. cit., pp. 162–171.

[8] Adams, Civilization during the Middle Ages, chap. v.

popular assemblies. Conquered territory was distributed by the chiefs, now becoming kings, to petty chiefs who supported them, political power thus being split up into feudal fragments.[1] The state was disintegrated, authority based upon personal allegiance founded upon land ownership filtering from the higher grade to the lower, and the mass of the conquered population degenerated into agricultural serfs bound to the soil.[2] Such a condition naturally resulted in disorder and anarchy, in conflicting laws and authorities, in the complete subordination of the mass of the people. Neither unity nor liberty was possible in feudalism;[3] the world empire of Rome had been destroyed and as yet no new form of state had arisen to replace it.

360. Temporal authority of the medieval church. A large share of political power was exercised by the Roman Catholic church during the Middle Ages. Growing up on the ruins of the Roman Empire, it developed a centralized organization,[4] and when Christianity became the state worship it acquired important governing power. When the empire fell, the church remained as the sole bond of unity in western Europe. Preservation of peace and order was largely in its hands.[5] Its bishops exercised political authority in many cities; as a landholder the church was drawn into the feudal system; and by its alliance with the Franks it became an important temporal power.[6] Organized into a centralized hierarchy under the pope, and creating its own system of law and courts, the church for a time wielded the most powerful authority in Europe.[7]

361. Attempts to restore the imperial organization. Various efforts were made during the Middle Ages to revive the Roman idea of centralized government over considerable area. The nearest

[1] Hallam, Middle Ages, chap. ii; Adams, Civilization during the Middle Ages, chap. ix; Wilson, The State, pp. 171–178.

[2] Jessopp, Coming of the Friars, pp. 87–112; Cheyney, Industrial and Social History of England, pp. 31–52; Ashley, Introduction to English Economic History, Vol. I, pp. 10–43.

[3] Jenks, Law and Politics in the Middle Ages, chaps. iii, vii.

[4] Fisher, History of the Reformation, chap. ii.

[5] Emerton, Medieval Europe, pp. 568–571.

[6] Sidgwick, Development of European Polity, chap. xv; Emerton, op. cit., chap. ii.

[7] Bryce, Holy Roman Empire, chap. x; Tout, The Empire and the Papacy; Lee, Historical Jurisprudence, chap. xii.

approach to success was that of Charlemagne.[1] By a series of conquests and with the aid of the church, he unified the Teutonic states of continental Europe and maintained a somewhat effective national administration by placing officials responsible to himself in the local divisions of his empire, and by sending supervisors (the *missi dominici*) from time to time to keep them in order.[2] This empire fell apart after his death, however, although the theory of the Holy Roman Empire survived and a line of emperors, chosen from various feudal houses, carried the titles of Rome throughout the Middle Ages, keeping alive the idea of unity and the Roman theory of government and law.[3] In actual practice governmental authority was distributed among the local leaders, a hereditary, military, landholding nobility sharing with the church the exercise of political power. Traces of Roman municipal organization survived in the cities of south Europe;[4] although in many towns, especially in the north, a semifeudal organization of trade and industry created guilds which, in addition to controlling industrial affairs, had large powers of government. In Italy and Germany, where no centralizing movement gained strength, these towns became practically independent states, governed by administrative boards and councils variously chosen.[5] While the suffrage was strictly limited, a broader basis of popular government existed in the cities than on the rural manors.[6]

362. Growth of the absolute monarchies. Out of the chaos of feudalism a definite form of political life gradually appeared.[7] At first the strongest centralizing force was the ambition of the great nobles. By conquest, William of Normandy unified England, superimposing a centralized feudalism upon the democratic local organization of the Anglo-Saxons.[8] By conquest, by marriage, and by

[1] Hodgkin, Charles the Great.

[2] University of Pennsylvania Translations and Reprints, Vol. VI, No. 5, pp. 16–27; Bémont and Monod, Medieval Europe, chap. xiii; Adams, op. cit., pp. 156–163.

[3] Bryce, op. cit., chaps. vi–xviii; Adams, op. cit., chap. viii.

[4] Thatcher and Schwill, Europe in the Middle Age, pp. 435–445, 452–473.

[5] Sidgwick, op. cit., chaps. xvi–xx; Fairlie, Municipal Administration, chap. ii.

[6] Guizot, History of Civilization, chap. vii.

[7] Perris, War and Peace, chap. vi.

[8] Stubbs, Constitutional History of England, chap. v; Taswell-Langmead, English Constitutional History, chap. ii.

fraud, the House of Capet in France drew the various feudal sovereignties into its possession.[1] Gradually ethnic ties of language, race, and religion created nationalities, and the influence of the geographic divisions of Europe manifested themselves, and on these bases the states of modern Europe arose. In each state a strong national spirit destroyed the medieval idea of a common superior, and a strong national government attacked the influence of the church and separated religious and political ideas.

363. Destruction of the feudal nobility. These national states emerged as absolute monarchies, whose existence was justified because of their work of consolidation and nationalization. "Popular government could make no headway until provinces were consolidated into kingdoms, classes and races into nations, and conflicting jurisdictions were unified. It was the mission of absolute monarchy to establish the sovereignty of the national state in the place of the rival authorities of the church, of feudalism, of free cities, and of other obstacles which stood in the way of the development of the modern state."[2] The great enemies of centralized authority had been the feudal nobles, and their destruction was necessary before a strong state could exist. The Crusades[3] killed off many of these nobles and ruined others; in England the Wars of the Roses served the same purpose.[4] The growth of industry and commerce and the rise of towns[5] created other forms of wealth in addition to land, making the nobles no longer the only wealthy class;[6] and the invention of gunpowder destroyed their military supremacy.[7] As the power of the nobility diminished, their strength

[1] Adams, Growth of the French Nation, chaps. vi–viii.

[2] Garner, Introduction to Political Science, p. 207.

[3] Adams, Civilization during the Middle Ages, pp. 274–275.

[4] Green, Short History of the English People, chap. vi, sections 2–3; Macy, English Constitution, chap. xvi.

[5] Munro, History of the Middle Ages, chap. xiv; Day, History of Commerce, chaps. x–xiv; Lodge, Close of the Middle Ages, pp. 419–450.

[6] The beginnings of modern democracy were closely associated with the rise of new forms of wealth. An economic condition that demanded capacity and intelligence in the workers tended to bestow political rights on that class. A share in political power was demanded by those who had proved their ability by economic success. The broad, idealistic principles of universal brotherhood and of equal political privileges for all came later. Conservative democracy is based upon the former conception; radical democracy, upon the latter.

[7] Seignobos, History of Medieval and Modern Civilization, pp. 235–236.

passed into the hands of the rising kings. The mass of the people, just rising from serfdom, ignorant and unorganized, were no match for the monarchs when the nobles, who had so long stood between them and the kings, were gone. In fact, in many cases the people welcomed the strong government of their kings, partly because they desired peace and security, and partly because of the growing national spirit that centered around the monarch as representing the state. In this general way arose the absolute monarchy of the Tudors in England, of Philip II in Spain, of Francis I in France. A national state with centralized government under an absolute monarch — organization again without freedom — was the immediate outgrowth of the decaying feudal system.[1]

364. Development in different states. The evolution of national states was not uniform, local conditions and past historic development giving each its own peculiar form. In England, where the strong monarchy of the conquering Normans had early secured unity, feudalism never flourished; and the Teutonic population, retaining their democratic institutions, soon began the struggle against royal authority.[2] It was only when the nobles, who were allied to the lower classes more closely in England than elsewhere, had been weakened that this gradual democratic development was checked and the absolute monarchy of the Tudors and Stuarts became possible.[3] On the other hand, absolute monarchy was the logical outcome of French conditions. Starting with the most complete feudal decentralization, the Capetian line had been gradually extending its territory, perfecting its administration, securing uniformity of law and a national army and finance.[4] A centralized French monarchy had been their ambition for centuries.[5] Germany and Italy, because of their connection in the Holy Roman Empire,

[1] West, Modern History, pp. 132–133; Seignobos, op. cit., chaps. xvi, xxiii; Sidgwick, Development of European Polity, chaps. xxii–xxiii.

[2] Wilson, The State, pp. 364–378; Ogg, Governments of Europe, chap. i; Seignobos, op. cit., chap. xi.

[3] Cheyney, Short History of England, chaps. xii–xiv.

[4] Wilson, op. cit., pp. 198–213; Adams, op. cit., chap. xiii.

[5] It may also be noted that in England the judicial function of the state was well developed before the administrative organization grew strong, and the attempts of monarchs to increase their administrative authority was resisted by a highly organized system of law courts. On the continent, the administrative authority of the state developed before the judicial, and the law courts were never able to

because of their long struggle with the papacy, and because they were the battle-ground of Europe in both religious and territorial wars, were unable to secure national unity and strong government until the nineteenth century.[1]

365. Conflict between king and people. The next step was concerned with the conflict of king and people within the state. With the growth of intelligence and wealth, the mass of the people demanded more political rights and privileges.[2] The overthrow of the feudal system destroyed the innumerable vertical groups of society and led to a horizontal division into classes or estates that had common aims and interests. In addition to this, representative government was created. Thus both the motive and the machinery of democracy existed, and absolutism in reality hastened its progress. Power concentrated under a monarch was more apparent and more easily attacked than when possessed by a number of feudal aristocrats, and when the divine authority of the ruler was questioned,[3] the people began to realize that power lay in their hands if they wished to wield it. The last century witnessed the rise of democracy, accompanied by more or less disturbance in proportion as the old order was established and refused to yield.

366. Course of democratic development. Here again the process was not uniform in all states. In England the growth of democracy — the completion of a process long begun — was, in the main, gradual and peaceful.[4] In France it meant a complete break with past tendencies, and caused the terrors of the Revolution and the rise of a Napoleon.[5] Elsewhere the monarchs learned wisdom by

bring the strong administrative officials under their control. Separate administrative law and courts still exist in continental Europe, and the control of the people over their government and the legal guarantee of their civil liberty are correspondingly diminished. See Lowell, Governments and Parties in Continental Europe, Vol. I, pp. 47–68; Goodnow, Comparative Administrative Law, Vol. II, Bk. VI, pp. 144–261.

[1] Emerton, Medieval Europe, chaps. vii–x; Robinson, History of Western Europe, chaps. xxix, xl.

[2] Seignobos, History of Contemporary Civilization, chap. iii.

[3] Dunning, Political Theories: From Luther to Montesquieu, chap. x; Scherger, Evolution of Modern Liberty, chaps. v–vii.

[4] Note the Revolution of 1688, the Act of Settlement (1701), the Reform Acts of 1832, 1867, 1884, the Parliament Act of 1911. See Hayes, British Social Politics, chap. ix.

[5] Guizot, History of Civilization, chap. xiv.

experience, and yielded as political consciousness spread among their peoples.[1] Local self-government, with representation for common affairs, has been the usual arrangement that resulted. In many cases the king has remained as a historic figurehead, but real sovereignty has passed to a larger proportion of the population, and the state rests on a broad basis.

IV. Evolution of Political Liberty

367. Democratic governmental devices. The preceding broad outline indicates the main steps leading to the formation of modern national democracies. A more detailed account of the evolution of certain governmental devices that have been most valuable in the organization of democracy may now be noted. Several of these have already been referred to. The federation,[2] in which the principles of local self-government and representation are applied on a large scale, has proved valuable in extending political liberty over large areas and in avoiding the centralized bureaucracy of earlier empires.[3] The widening of citizenship within the state,[4] following the disappearance of narrow, privileged classes, which for a long time were alone admitted to full membership in the political community, has furnished a necessary background for self-government.[5] Political parties,[6] by means of which public opinion is crystallized and a constant influence exerted on both governmental policy and the selection of governmental officials, have invariably accompanied democracy. Standing between the citizens and the machinery of the state, they furnish an agency for coördinating and expressing the general will under the broad principle of majority rule.[7] When organized on national lines they furnish a form of centralized organization for the entire population

[1] Note the waves of revolution that swept over Europe in 1820, 1830, and 1848. See Seignobos, op. cit., chaps. x, xix.

[2] See above, Chapter VI, sections 248–249.

[3] Sidgwick, Development of European Polity, chap. xxix.

[4] See above, Chapter VI, sections 263–269.

[5] Bluntschli, Theory of the State, Bk. II, chaps. vii–xvii.

[6] See above, Chapter III, section 101.

[7] Jenks, History of Politics, pp. 135–139; Macy, Party Organization and Machinery, Introduction; Jenks, Principles of Politics, chap. iv; Lowell, Public Opinion and Popular Government, Parts I–II.

of the state that tends to bind together the various departments and divisions in complex modern governments, and to secure a necessary unity in policy and harmony in administration.[1]

368. Written constitutions. Written constitutions[2] have also been associated with democracy.[3] By putting into a fundamental document a statement of the nature, scope of authority, and methods of procedure of the organs of government, arbitrary and despotic power may be prevented. Charters of popular rights, secured by force, by purchase, or by voluntary gift, were the first definite limitations on royal prerogatives.[4] Charters in which a detailed form of government was laid down were granted during the Middle Ages to cities and to various corporations, and the royal grants under which the English colonies in America were settled were easily transformed into written bases for colonial government.[5] In 1638 the people of Connecticut drew up the famous Fundamental Orders, the first written constitution that created a government ever drawn up by the people or by their representatives.[6] During the English Commonwealth, Cromwell's army drew up written schemes of government, of which the Agreement of the People (1647) was the most important. This was incorporated into the Instrument of Government in 1653 by the

[1] Goodnow, Politics and Administration, pp. 24–34; Beard, American Government and Politics, pp. 99–103. It is a suggestive fact that in the United States, where the government is highly decentralized and largely in local hands, the organization of the parties is highly centralized and on a national basis; in France, where the administration is centralized under national control, the parties are numerous and largely local in nature. See Beard, op. cit., pp. 166–184; Bodley, France, Bk. IV. It also follows that under the centralized system of party organization in the United States the political bosses, who stand at the top of the hierarchy, are the most important political figures and the chief dangers to democracy; and their irresponsibility, since the parties exist largely outside the legal organization of the state, increases the danger of political corruption. In England, where party organization is centralized, the party bosses are responsible leaders in the government. See Goodnow, op. cit., chaps. vii–x; Lowell, Government of England, Vol. I, chap. xxiv.

[2] See above, Chapter III, section 100.

[3] Leacock, Elements of Political Science, pp. 123–128.

[4] Hill, Liberty Documents, chaps. i–ii, iv, vi.

[5] Cheyney, European Background of American History (American Nation, Vol. I), chaps. vii–viii; Schouler, Constitutional Studies, chap. ii.

[6] MacDonald, Select Charters, No. 14; Andrews, "River Towns of Connecticut," in Johns Hopkins University Studies, Vol. VII, Nos. 7–9.

Council of Officers and formed the first and only written constitution in England.[1] While this document was never really operative and disappeared with the restoration of the monarchy, some of its underlying ideas were carried out in colonial charters and governments, and reappeared later in the American state and federal constitutions. When the American Revolution broke out, all the American states created documentary constitutions; and the Articles of Confederation and finally the Federal Constitution applied the same idea on a national scale.[2] During the French Revolution several written constitutions were drawn up by the various popular assemblies, these documents including, as in America, both bills of rights and frames of government.[3] The series of popular revolutions that swept over Europe during the second quarter of the nineteenth century resulted in the granting of written constitutions in many of the states of continental Europe and in the establishment of republics with written constitutions in Latin America.[4] At present the connection between written constitutions and democratic government is firmly fixed, and except for Great Britain and Hungary,[5] whose organizations rest upon custom and usage, a few important scattered documents variously created, and a series of legislative statutes, all important states base their governmental systems upon fundamental written statements either created by popular authority or secured by popular demands.[6]

369. The electorate. Even more fundamental in the evolution of political liberty was the development of the electorate and the system of representation. The theories upon which the composition of the electorate has been based have differed widely.[7] In the ancient tribes and in the Greek and Roman cities, no distinction

[1] Hill, op. cit., chap. vii. [2] Ashley, American Federal State, chaps. iv–v.

[3] Anderson, Constitutions and Documents, Nos. 15, 39, 50, 58; Ogg, Governments of Europe, pp. 289–295.

[4] Borgeaud, Adoption and Amendment of Constitutions in Europe and America, Part I.

[5] Leacock, op. cit., pp. 121–123; Lowell, op. cit., Vol. I, pp. 1–15; Ogg, op. cit., pp. 489–490.

[6] Dodd, Modern Constitutions.

[7] Shepard, "Theory of the Nature of the Suffrage," in Proceedings of the American Political Science Association, Vol. IX, pp. 106–136.

was made between man as an individual and as a member of his state. The life of the state was a part of the life of each individual, and the individual had no life or interests except as a member of his political group. Political life was a necessary part of man's existence, and this political life was manifested by sharing in government.[1] Especially when the interests of the community became complex and the hereditary patriarchal system of organization no longer truly represented the ideas and interests of the whole community, a demand for the representation of all interests and localities led to a series of reforms[2] that finally resulted in the bestowal on every citizen of a voice in the affairs of government. While the citizen class was narrow at first, excluding those of different blood and religion, or later large numbers of slaves and aliens, it coincided with the electorate; and the widening of the citizen class made possible democracy in the ancient cities. By formal votes cast on stated days, by membership in the general lawmaking assembly, by service in the jury courts, the electorate exercised a considerable share of governing power. This early electorate disappeared, however, when the state expanded. In the absence of a system of representation, political privileges could be exercised only at the capital, and the obstacles offered by distance and by numbers broke down the theory that all citizens should share in political power. Public assemblies were demoralized by their increase in size, and when the ancient cities were merged into a world empire an electorate became impossible, citizenship implying civil protection rather than political rights.[3]

370. Evolution of the modern electorate. Feudalism minimized the necessity for the democratic device of the electorate except in the commercial centers of Italy and Germany.[4] A national electorate was created first in England when municipal corporations and county or shire courts were authorized to send delegates to assist the council in advising the king and to furnish their quota of

[1] Willoughby, Political Theories of the Ancient World, pp. 54–67; De Coulanges, Ancient City, Bk. III, chaps. xii, xvii; Bk. IV, chap. ix.

[2] For example, those of Solon and Cleisthenes, of Servius Tullius and of the patrician-plebeian contest. See Wilson, The State, pp. 64–120.

[3] Dunning, Political Theories: Ancient and Medieval, pp. 111–113.

[4] Sidgwick, Development of European Polity, chaps. xvi–xx; Symonds, Renaissance in Italy: The Age of the Despots, chap. iv.

money grants.[1] The rising tide of democracy during the fifteenth and sixteenth centuries again brought the idea of an electorate into prominence. The medieval theory of the electorate was, however, based upon the divisions of society into feudal estates. Men represented the corporate interests of their class; voting went with a man's status or with his ownership of land;[2] it was a privilege that could be inherited. The membership of the corporate bodies who possessed the suffrage in shire and in town was narrow, and their privileges were for a long time jealously guarded.[3] The modern association of voting rights with landholding or with tax-paying, the English system of permitting a man to vote wherever he possesses certain property qualifications,[4] the Prussian[5] and Belgian[6] methods of granting additional suffrage rights to the larger taxpayers, are survivals of the medieval theory.

371. Manhood suffrage. The political philosophy of the eighteenth century taught that every citizen had a natural and inherent right to participate in government.[7] This was a logical consequence of the Protestant Reformation, with its emphasis on individualism and the equality of man, and of the social-contract theory, with its conception of sovereignty as general will.[8] The right of suffrage, therefore, was a gift of nature, belonging to all citizens alike; and this doctrine of universal suffrage was a powerful factor in the development of modern democracy. Manhood suffrage was proposed by the Levelers in England at the time of the Puritan Revolution;[9] Montesquieu, Robespierre, Condorcet, and Rousseau in France believed that all citizens should share in the formation

[1] Hill, Liberty Documents, chap. iii; Taswell-Langmead, English Constitutional History, chaps. vii–viii.

[2] McCrary, Law of Elections, section 9.

[3] Sidgwick, op. cit., pp. 302–310, 324–326.

[4] Lowell, Government of England, Vol. I, pp. 214–215.

[5] Lowell, Governments and Parties in Continental Europe, Vol. I, pp. 303–308; Ogg, Governments of Europe, pp. 258–260.

[6] Garner, Introduction to Political Science, pp. 496–498; Dupriez, Le Suffrage universel en Belgique; Ogg, op. cit., pp. 539–542.

[7] Suggestions of the natural-rights basis of the suffrage may be found even during the medieval period. See Shepard, "Theory of the Nature of the Suffrage," in Proceedings of the American Political Science Association, Vol. IX, pp. 114–116.

[8] Scherger, Evolution of Modern Liberty, Part II.

[9] The Clarke Papers, Vol. I, pp. 263–264, 300–323.

of law and in the selection of officials;[1] Jefferson and his school in America represented the same point of view.[2] The narrow electorate of feudal origin was gradually widened under the influence of these principles. The French constitutions of the Revolutionary period reduced the qualifications for voting and established the principle of a wide suffrage. While the restoration in France required a large tax contribution from electors, the revolutions of 1830 and of 1848 finally established direct manhood suffrage.[3] In England the electorate was widened by the Reform Acts of 1832, 1867, and 1884;[4] in the United States the wave of democratic sentiment associated chiefly with the names of Jefferson and Jackson broadened the narrow electorate of colonial times.[5]

372. Present theory of suffrage. At the present time the political doctrine that suffrage is a natural right of citizens is no longer held. It is recognized that the right to vote is a privilege granted by the state to such persons as are likely to exercise it for the public good. The electorate has, in fact, become an organ of government.[6] Its composition and functions are determined by law. Efficiency in performing its part in the government may, therefore, restrict the electorate to persons possessing certain qualifications; almost all states impose some conditions upon the privilege of voting.[7] At the same time, the value of the suffrage as a means of developing the full powers of the individual is realized;[8] and the political education and social stability resulting from universal suffrage is considered of more importance than the mere question of governmental efficiency alone.[9] The movement toward the complete enfranchisement of the masses still continues, therefore, the best thought of the present day favoring as wide an extension of the elective franchise as is consistent with good government.

[1] Esmein, Droit constitutionnel, pp. 210–211; Montesquieu, Spirit of the Laws, Bk. XI, chap. vi; Rousseau, Social Contract, Bk. IV, chap. ii.

[2] Merriam, American Political Theories, chap. iv.

[3] Esmein, op. cit., pp. 222–236.

[4] Lowell, Government of England, Vol. I, pp. 202–218.

[5] Ford, Rise and Growth of American Politics, chaps. x, xiii; Merriam, op. cit., chap. v.

[6] Dealey, Development of the State, pp. 215–220.

[7] Garner, Introduction to Political Science, pp. 491–508.

[8] Dole, Spirit of Democracy.

[9] Laveleye, Gouvernement dans la démocratie, Vol. II, Bk. IX, chap. i; Dealey, op. cit., pp. 304–307.

373. Direct and indirect authority of the electorate. The extent of the electorate alone is not a test of the share of the people in government.[1] The authority exercised by the electorate indirectly, by means of its control over the ordinary organs of government through elections[2] and political parties, and the degree in which the electorate exercises authority directly, by means of the initiative and referendum, determine the real extent of popular control.[3] The actual authority exercised by the organs under popular control must also be considered. "In the election of the members of the German *Reichstag*, for example, there is no educational or property qualification required for voting. We might therefore conclude that the German government was more nearly a popular government than that of Great Britain, where there is a property qualification. On the other hand, if we consider the influence that the voters can exert, we must conclude that the British form of government is more popular than that of Germany, because in England the members of the House of Commons, chosen by the voters, can exert a very much greater influence in governmental affairs than can the members of the *Reichstag* in Germany."[4]

374. Popular legislation and popular administration. It is also of importance to note whether popular control is exerted over the expression of the state's will, over the administration of the state's will, or over both. "When the Greek spoke of democracy he had in his mind the conduct of the administration. He meant the control by the mass of citizens of the questions of peace and war, of the relations with the allies and the colonies, of the finances, the army, and the fleet. In Athens at the time of Demosthenes all these things had been placed in the hands of the assembly of the people, which managed them as far as possible directly, or by means of committees chosen for short periods by lot. But the same methods were not applied to legislation. To the Greek mind the laws were normally permanent and unchangeable. . . . In Athens, therefore, the administration was conducted directly by the people, but the

[1] Sidgwick, Elements of Politics, chap. xxvii.

[2] Including the number of officials chosen by election, whether election is direct or indirect, and the length of term of elected officials.

[3] Gettell, Introduction to Political Science, pp. 205–207, 211–219.

[4] Jenks, Principles of Politics, pp. 42–43.

power of legislation was far less under their control. Now in Switzerland precisely the reverse is true. It is hard to conceive how the control of legislation by the people could be rendered more absolute than it is made by the referendum and the initiative; but, on the other hand, the executive of the Confederation is removed as far from popular influence as is possible in a community where every public authority is ultimately based on universal suffrage. The federal councillors virtually hold office for life, and they are chosen, not by the people, but by the assembly, whose members enjoy in their turn a singularly stable tenure."[1] Modern democracies aim at popular control of both legislation and administration, limiting the former by the device of representation because of the large areas of the states, and by written constitutions as a check on arbitrariness and impulsiveness, and limiting the latter by the devices of appointment, competitive examination, and permanent tenure because of the need for efficiency in government.

375. Diffusion of authority in modern democracies. It is, in fact, almost impossible to locate the final source of political authority in modern democracies. "It is evident that in the diffusion of political power among the masses the state has lost its ancient definiteness of form, for it is difficult to discover not only who compose the state from the standpoint of law, but also where among those enjoying nominal sovereignty is the real power. As we pass from the relatively simple state such as we find in England shortly after the Norman conquest, when the king was the virtual sovereign, to the state as we find it to-day, it becomes increasingly difficult to determine precisely the seat of real authority. True, it is relatively easy to ascertain the precise number of British who are by law entitled to vote for members of Parliament, and one might say that this is the legal sovereign in Great Britain. But if we press the analysis further, we must go behind the ballot box to the psychological forces controlling the action of the individuals composing the state, and when we try to get hold of power in a political sense we find it exceedingly elusive. It is clear that these thousands of units making up the state are not all equal in intelligence or influence. It is also evident that a great portion of them

[1] Lowell, Governments and Parties in Continental Europe, Vol. II, pp. 333-334.

do not exercise the power which they lawfully have, that another portion has no very lively consciousness of the motives on which it acts, and that the actual will of the state in any one instance is merely that of a majority at best." [1]

376. Political liberty distinct from civil liberty. Finally, the extent to which the people share in government is no necessary criterion of the amount of their civil liberty. "In a popular government a very large proportion of the people of proper age vote. That fact, however, does not necessarily imply that the average citizen has a greater degree of liberty to do as he pleases than he might have in a despotism. All depends upon the regulations which a government makes to direct or control the actions of individual citizens. A free state is one that, relatively speaking, interferes little with the individual in carrying out his wishes. A despotism might therefore from this point of view be really a free state, the despot choosing to interfere with the individual very little. In a popular government, inasmuch as the individual takes an active part in selecting the members of that government, we are naturally more likely to find freedom than in a despotism; but this is not necessarily the case. We may properly speak of the tyranny of the majority." [2]

377. Representative government. The principle of representation was practically unknown in the ancient world.[3] Provincial assemblies were sometimes held,[4] and the leagues of cities that were formed in Greece after the fall of Alexander's empire approached very closely the establishment of a representative system.[5] The ancient ideal of democracy, however, sought to divide political rule equally among all citizens, and the assemblies which sanctioned proposed laws were composed of freemen meeting in their personal capacities.[6] Not until the Middle Ages did representative government become of importance. "Two conditions facilitated this:

[1] Beard, Politics, p. 19. See also Lowell, Public Opinion and Popular Government, chaps. i–ii.

[2] Jenks, Principles of Politics, pp. 43–44.

[3] Montesquieu, Spirit of the Laws, Bk. XI, chap. viii.

[4] Arnold, Roman Provincial Administration, p. 202.

[5] Freeman, History of Federal Government, Vol. I, chap. ii, and pp. 219–229; West, Ancient History, pp. 237–245.

[6] Bluntschli, Theory of the State, Bk. VI, chaps. xx–xxi.

the states were of a feudal character, the component parts of each claiming a certain independence within the general body, and they were large. The first circumstance implied that the different parts should have a certain share in the management of common affairs; the second circumstance made it necessary that only *some* of the persons inhabiting each component part could meet in common. Thus the representative system originated. There is no country in Europe that has passed through the feudal stage which has not, at some time or other, had a representative assembly organized in 'Orders.' In most countries absolutism put an end to the existence, even the formal existence, of these institutions; but they survived in a few." [1]

378. Evolution of modern representation. The modern representative system developed from the Teutonic folkmoots [2] and first reached its national form in England.[3] The Anglo-Saxon Witanagemot,[4] a modified folkmoot applied to a large area, came, under the name of the *Commune Concilium* after the Norman Conquest, to contain a number of members who were representative in character. To the original council, consisting of the greater nobles and the higher clergy, members from the shires and from the boroughs were added, and these members were finally chosen by certain qualified voters in their respective districts.[5] Thus the three estates of the realm — the clergy, the nobility, and the commons — were represented, and the English Parliament, dividing into two houses during the fourteenth century, entered upon the process of development that finally placed complete governmental authority in the hands of a popularly chosen representative assembly.[6]

[1] Lange, "Tendencies towards Parliamentary Rule," in Spiller, Interracial Problems, pp. 114–115.

[2] Stubbs, Constitutional History of England, Vol. I, chaps ii–iii.

[3] For a good discussion of the evolution of Parliament, see Medley, English Constitutional History, chaps. iii–vi; Wilson, The State, pp. 364–402.

[4] Stubbs, op. cit., Vol. I, chap. vi.

[5] Stubbs, op. cit., Vol. I, chap. xiii.

[6] The English assembly came when that country was breaking away from agriculture and developing commerce and manufactures, and when kings, ever engaged in war or the suppression of rebellion, were forced to rely more and more upon the support of the common people and on taxes raised from urban centers. So constantly was the king in need of money grants and military support, that the first two hundred years of the history of the assembly of the

379. Representation in England. The spirit of unity among the classes and sections was greater in England than elsewhere during the Middle Ages, and the continuous development of the medieval assembly of estates into the modern Parliament was correspondingly aided.[1] The insular position of England hastened the fusion of its peoples, and freedom from external danger weakened the distinction between the military nobility and the nonmilitary agricultural gentry and city merchants. Besides, the disintegrating effects of feudalism were absent in the strong government established by the Norman Conquest; a uniform or common law subordinated the local customs;[2] and the English principle of descent, nobility passing to the eldest son only, broke down the barriers between the classes. Even the feudal nobles and the merchant princes had no quarrel as they had on the continent. A homogeneous and united people,[3] therefore, undertook the contest against the vigorous monarchy; and by the end of the fourteenth century, Parliament had become a regular part of the government, the financial needs of the crown being the opportunity of the people's representatives.[4]

380. Representation on the continent. Representative institutions on the continent, receiving their chief impetus from the growth of semidemocratic cities, came later and were less popular in composition than in England. Sometimes, as in France, the impulse to their formation proceeded from considerations of policy, chiefly of finance, on the part of the monarchs; sometimes, as in Germany, they represented a spontaneous movement of voluntary association

commons marked an almost steady growth in its power and prestige. During the sixteenth century the historic council of nobles and clergy, who formed the house of lords, was relatively weak. This was due to its depletion in numbers owing to the civil wars and to the nationalization of the church, which deprived that body of much of its power and representation. In consequence the two houses during the Tudor period were fairly equal, and were firmly welded together into a parliament. The rapid development of commerce and manufactures under the Tudors and Stuarts gradually transferred the balance of power from the lords to the commons as the representatives of these interests, and the rise of England to world supremacy in the nineteenth century made the commons supreme in governmental policy. — Dealey, Development of the State, pp. 189–190.

[1] Sidgwick, Development of European Polity, pp. 310–315.

[2] Lee, Historical Jurisprudence, chap. xvi.

[3] Macy, English Constitution, chap. I.

[4] Feilden, Short Constitutional History of England, chap. v.

among persons and bodies in the same social condition. The national assemblies of the Middle Ages represented groups and classes; the deputies of each class were often summoned separately and sat and voted separately. The delegates had narrow powers, acted under strict instructions,[1] and represented the interests of their class, not of the state as a whole.[2] A legislative assembly, or *Cortes*, containing representatives of the cities, existed in Castile and in Aragon in the twelfth century. The French king summoned a general parliament, or states-general, composed of representatives of the clergy, the nobility, and the townspeople, in 1302. A system of representation by classes developed in Germany during the thirteenth and fourteenth centuries.[3] None of these bodies, however, represented a united people, and all disappeared under the growing centralization of the national monarchies.[4]

381. Representation in America. A democratic representative system first appeared in America. English political ideas, transplanted into a new environment where marked social distinctions did not exist and where local self-government flourished,[5] created representative assemblies resting upon the whole people and based upon territorial districts rather than upon classes of population.[6] The Virginia House of Burgesses, consisting of twenty-two delegates from eleven local communities, was assembled in 1619.[7] Colonial assemblies were later established in all the colonies; representative rule was firmly founded in the constitutions of the

[1] On instructed and uninstructed representation, see Mill, Representative Government, chaps. xii–xiii; Garner, Introduction to Political Science, pp. 478–488.

[2] Jellinek, Recht des modernen Staates, Bk. III, chap. xvii; Sidgwick, Development of European Polity, pp. 302–310.

[3] Garner, op. cit., pp. 474–478.

[4] The French states-general, after meeting irregularly for several centuries, ceased to assemble in 1614 and was not again summoned until 1789, at the outbreak of the Revolution. See Rose, Revolutionary and Napoleonic Era, pp. 34–40.

[5] Fairlie, Local Government in Counties, Towns, and Villages, chaps. i–ii; Hinsdale, American Government, pp. 38–43.

[6] For differences between theories of representation in England and in the colonies, see Channing, Students' History of the United States, pp. 162–166.

[7] In the words of the "briefe declaration," written a few years later, "That they might have a hande in the governinge of themselves, yt was graunted that a general Assemblie shoulde be helde yearly once, whereat were to be present the Governor and Counsell with two Burgesses from each Plantation, freely to be elected by the Inhabitants thereof, this Assemblie to have power to make and ordaine whatsoever lawes and orders should by them be thought good and profitable for our subsistance." — Thwaites, The Colonies, p. 73.

states after they declared their independence; and the same principle was applied to federal affairs in the constitution of 1789.[1] A compromise between representation of the entire population and of the separate territorial units was necessary because of the unwillingness of the several states to lose their separate political identities,[2] but no attempt was made to represent classes or interests.[3]

382. Recent extension of representation. Not until the eighteenth century did the estates system in Europe give way to a national system of representation.[4] Even after the fall of Napoleon few states possessed representative institutions. England, Sweden, and Norway had more or less democratic representative systems suited to the social needs of their peoples. The restored dynasties in France and Holland granted constitutions and representative assemblies in order to strengthen their own positions. In Switzerland direct popular rule in some cantons and representative assemblies in others survived from an earlier period. Hungary, Poland, and Finland had constitutions permitting assemblies, but they existed chiefly on paper. The other European states remained autocratic. Succeeding revolutions, however, extended the principle of popular representative government to one state after another,[5] and by 1880 only two important states in Europe — Russia and Turkey — had autocratic constitutions. In America not a single state existed without representative institutions; a number of self-governing British colonies organized themselves on a representative basis; and Japan in Asia imitated the European system in her constitution of 1889.[6] The Russo-Japanese War of 1905 gave a new impetus to the extension of popular government, leading to the establishment of a representative Duma in

[1] The Federalist, Nos. 9–10, 39, 52–63.

[2] Farrand, Records of the Federal Convention, Vol. I, pp. 522–523; Landon, Constitutional History and Government of the United States, pp. 82–91.

[3] The Federalist, Nos. 35–36.

[4] For comparison of medieval and modern ideas of representation, see Bornhak, Allgemeine Staatslehre, pp. 99–114.

[5] Lange, "Tendencies towards Parliamentary Rule," in Spiller, Interracial Problems, pp. 115–118; Borgeaud, Adoption and Amendment of Constitutions in Europe and America, pp. 3–43.

[6] Zumoto, "Government of Japan," in Proceedings of the American Political Science Association, Vol. VI, pp. 163–169; Gollier, Essai sur les institutions politiques du Japon.

the Russian Empire.[1] A revolutionary upheaval forced the Persian shah to grant a constitution in 1906, and in 1908 a peaceful revolution in Turkey established a parliamentary régime in that state.[2] Representative institutions have been provided for in the newly established Chinese Republic,[3] and in India and Egypt native parties are working for popular and representative government.

383. Value of representation. While the actual workings of these systems vary widely and the degree of local self-government and of popular control over national affairs shows marked divergences in different states, the general principle of democratic, representative government is universally accepted. In contrast to the imperial administration of large states in the ancient world, which worked from the center outward, gave the people no share in political rights, and made little provision for local interests, the modern system of organizing large areas places extensive powers, direct or indirect, within reach of the masses, leaves local affairs to the people chiefly concerned, and delegates the consideration of general interests to an assembly composed of deputies chosen by the people and representing the varied interests of all sections of the state.[4] In this way political unity and popular government are combined;[5] and stability even in the largest state is possible because of the broad basis upon which political organization rests.[6]

[1] Hourwich, "The Russian Duma," in Proceedings of the American Political Science Association, Vol. VII, pp. 53–64; Hazen, Europe since 1815, chap. xxxi.

[2] Lybyer, "The Turkish Parliament," in Proceedings of the American Political Science Association, Vol. VII, pp. 65–77; Hazen, op. cit., pp. 636–644.

[3] Asakawa, "The New Régime in China," in Proceedings of the American Political Science Association, Vol. VI, pp. 123–147.

[4] Jenks, Principles of Politics, chap. v; Seeley, Introduction to Political Science, chaps. iv–v.

[5] Giddings, Democracy and Empire, chap. i.

[6] Macy, "Twentieth Century Democracy," in Political Science Quarterly, Vol. XIII; Sloane, "History and Democracy," in American Historical Review, Vol. I; Seeley, op. cit., chaps. vi–viii.

CHAPTER IX

SCOPE OF STATE ACTIVITIES

I. General Nature of Problem

384. Importance of state function. While the composition and form of the state are being determined under the influences that affect the grouping of peoples into political units within certain areas,[1] and while the nature of its governmental organization is being developed under the influences that affect the creation of political machinery and that determine the share of the people in government,[2] another problem of prime importance comes into prominence concerning the scope of state activities. What shall the state do? The existence of the state is of importance only as it functions. The machinery of government in motion rather than at rest represents the real life of the state.[3] Even the most negative phase of state existence, that in which it creates and safeguards the civil liberty of its individuals,[4] demands a certain amount of positive action; and all states have carried their activities far beyond that point, entering vigorously into the promotion of certain interests and the repression of others.

385. Classification of state functions. In the broadest sense the functions performed by government are twofold, consisting in the formulation and the execution of the state's will.[5] For purposes of organization the functions of government are usually divided into three classes, legislative, executive, and judicial.[6] A more complete

[1] See above, Chapters VI–VII.

[2] See above, Chapter VIII, sections 340–383.

[3] Lowell, "Physiology of Politics," in American Political Science Review, Vol. IV, No. 1.

[4] See above, Chapter VIII, sections 316–339.

[5] Goodnow, Politics and Administration, pp. 9–22.

[6] Bondy, "Separation of Governmental Powers," in Columbia University Studies, Vol. V, No. 2; Garner, Introduction to Political Science, chap. xiii; Lowell, Essays on Government, No. II; Montesquieu, Spirit of the Laws, Bk. XI, chap. vi.

analysis of the highly differentiated functions performed by modern states shows the following main divisions:[1] (1) The deliberative function, which is to determine the state's will. Some part of the government must be authorized to settle upon the general policy of the state. In former times, kings and their councils decided questions of policy; later, representative assemblies shared in the function; at present, special bodies, practically distinct, formulate a large part of legislative policy. Examples are the cabinet in England,[2] the permanent committees in American legislatures,[3] and the constitutional conventions,[4] which represent the wishes of the electorate. (2) The legislative function, which is to enact into law the policies thus formulated. This function, formerly exercised by the priests or kings who declared the wishes of the gods or by the elders who handed down the traditional customs, is to-day manifested in the statutes of representative bodies, in the referendums of the electorate, in the decrees or vetoes of executive officials,[5] and in many judicial decisions.[6] (3) The executive function, which is to supervise the carrying out of the law. This involves the exercise of oversight and the power of enforcing obedience. Executive, legislative, and judicial officials all share in this function.[7] (4) The administrative function, which is to perform the routine of government business. The greater part of the administration acts under the direction of the executive department, but part of it is controlled by legislatures and courts.[8] The clearest separation of the administrative from the other functions of government exists in France,[9] although a tendency in that direction is manifest in all modern states. (5) The judicial function, which is to interpret the law and to apply its remedies and penalties in particular cases. Separate

[1] Dealey, Development of the State, pp. 127–136.

[2] Lowell, Government of England, Vol. I, chaps. ii–iii, xvii–xviii, xxii–xxiii.

[3] McConachie, Congressional Committees; Beard, American Government and Politics, pp. 276–279, 291–293.

[4] Dodd, Revision and Amendment of State Constitutions, chaps. ii–iii, v.

[5] McClain, Constitutional Law in the United States, chap. xxi.

[6] Willoughby, Nature of the State, chap. vii; Gray, Nature and Sources of the Law.

[7] Goodnow, Comparative Administrative Law, Vol. I, pp. 25–26, 29–30.

[8] Goodnow, op. cit., Vol. II, pp. 135–143.

[9] Goodnow, op. cit., Vol. II, pp. 217–239; Lowell, Governments and Parties in Continental Europe, Vol. I, pp. 34–68.

judicial organs usually exercise this power, although legislatures and executives still retain traces of their former judicial functions.[1]

386. Subdivisions of general problem. In discussing the problems of state function a clear distinction must be made between the consideration of what the state actually has done or is doing and of what the state should do. The former may be further subdivided into the functions that states in fact perform and the conceptions or theories of state function upon which the acts of states are based. The functions performed by states do not show wide differences *in kind* during the entire process of political evolution. Changing historical circumstances have affected the method and extent of the exercise of governmental functions; functions have been performed by various organs, in different ways, and for different purposes, depending upon conditions in each state and at each period. Certain particular activities have appeared or disappeared, depending upon the stage of civilization and the interests of those controlling the government, but the actual practices of states show differences in degree rather than in fundamental nature.[2]

387. Essential and optional functions. For example, every state has found it necessary to enforce certain rules and laws for the protection of person and property from disorder and violence, to maintain justice in civil disputes and to define and punish crime, to determine the political duties, privileges, and relations of its citizens, to raise and expend certain revenues, to regulate dealings with other states, and secure safety against external danger by maintaining some sort of organized force.[3] These are essential functions, necessitated by the very nature of the state;[4] and the extent to which the control of the state must be exercised is determined

[1] For example, in the pardoning power and in impeachment. See Dealey, op. cit., chap. viii. Also in the off-hand decision of many administrative questions.

[2] Wilson, The State, pp. 615–628.

[3] Dealey, op. cit., pp. 65–87. The historical order in which objects of public expenditure appeared has been stated as follows: (1) external security, (2) security within the community, (3) promotion of material interests, (4) benevolence, (5) education, (6) labor. See Ely, Outlines of Economics, p. 566.

[4] Numerous attempts have been made to classify the functions of the state. See Gettell, Introduction to Political Science, chap. xxv; Garner, Introduction to Political Science, pp. 318–320; Wilson, op. cit., pp. 612–615; Leacock, Elements of Political Science, Part III, chap. iii; Willoughby, op. cit., pp. 310–311, 343–350.

mainly by the character of the people governed and by their state of civilization. States have also been interested in some form of internal improvements, ranging from the temples, palaces, and tombs built by state slavery in the Oriental empires, through the road-building of Persia and Rome, the medieval draining of marshes in Holland and England, to the state roads, bridges, canals, and railways and the irrigation and conservation projects of the present day. States have safeguarded or promoted the physical, moral, and intellectual life of their citizens, and have controlled or regulated industry and trade.[1] All these functions, in one shape or another, governments have undertaken. Sometimes the state has entered extensively into the lives of its members; sometimes it has left much to individual initiative and control. Sometimes its interference has aimed at its own benefit; sometimes at that of its citizens.

388. General similarity in state functioning. In the administration of these functions at different times, emphasis has been shifted from one to another; some have been widened, others narrowed; the purposes aimed at have varied. Roman roads, for instance, were built chiefly for the moving of armies; modern highways are fundamentally arteries of trade. Ancient states regulated commerce for the purpose of securing sufficient food for their citizens; in the eighteenth century states were interested in a favorable balance of trade; modern states aim at revenue, or the protection of their manufactures, or a well-rounded economic development. Ancient states compelled men to be frugal by law; modern states command compulsory education. Uniformities of practice, however, far outrun differences.[2] These similarities are due "to the fact that after all man is man everywhere and at all times, and that all political organization of men must therefore have ultimately the same ends, and must adopt in a general way the same methods for their satisfaction."[3]

[1] Ely, Outlines of Economics, chap. xxvi; Seager, Introduction to Economics, chap. xxii; Seligman, Principles of Economics, chaps. xxx, xxxiii.

[2] For the scope of administration in Athens, see Gilbert, Greek Constitutional Antiquities, pp. 214–416. For the functions performed by government in early England, see Stubbs, Constitutional History of England, Vol. I, chaps. xi, xiii. For the functions performed in early cities, see Fairlie, Municipal Administration, chaps. i–ii.

[3] Goodnow, Politics and Administration, p. 7.

389. Ancient theory of state functions. A notable contrast may be drawn between ancient and modern conceptions of the theory underlying governmental function. The ancient state absorbed the whole life of its members. Individual rights as contrasted with the rights of the state were unknown.[1] No limit to state functions was fixed even in theory, since no distinction was made between the interests of the individual and of the political unit of which he formed an integral part. While expediency determined the functions that government actually performed, all agreed that the state might do what it chose and that the interests of men in association, not of men as individuals, were of prime importance. The citizen existed for the state. The conception that there were individual rights, distinct from those created by the state, and that there existed a sphere of individual activity into which the state should not enter, came into the world through the religious teachings of Christianity[2] and through the political ideals of the Teutons.[3] The first attempts to fuse these revolutionary ideas with the political principles of the Roman world were followed by the anarchy of feudalism. The elements of the state disintegrated; and government, divided piecemeal, existed where it could and functioned as it could.[4]

390. Modern theory of state functions. As the national monarchies emerged, their kings, modeling political principles upon Roman jurisprudence, attempted to restore the ancient theory of state function and to concentrate its unlimited prerogatives in their own persons.[5] The opponents of the king, however, developed the new ideas into the doctrine of natural rights and the social contract, and upon these principles successfully waged their revolutionary struggles for a limitation on governmental authority and a guaranteed sphere of free action for the individual.[6] While the principles upon which this contest was won are now discredited, the fundamental change that it caused in the conception of state

[1] Willoughby, Political Theories of the Ancient World, pp. 160–166.
[2] Scherger, Evolution of Modern Liberty, pp. 28–33, 36–43.
[3] Wilson, The State, pp. 583–584. [4] Ibid. pp. 166–168, 584–585
[5] The theory of divine right and the hereditary principle of succession even gave a vague basis for reviving the ancient religio-kinship idea of the state as an enlarged family and the king as the father of his people. See Filmer, Patriarcha.
[6] Scherger, op. cit., Introduction; Part I, chaps. ii–iii; Parts III–IV.

functions still survives. The state no longer absorbs the individual; it exists rather to serve his interests. Each man aims to live his own life and to make his own social relations, many of them entirely outside the limits of the state's control.[1] The state is now conceived as the representative of the citizens, and its activities, even though more extensive in many respects than those of the ancient states, rest on a conception of political institutions that emancipates the individual and limits the scope of state functions in principle as well as in practice.[2]

391. Relation between organization and function. It is at once obvious that the form of the state and the nature of its governmental organization have been intimately connected with the extent of state activity, and that changes in the type of state or of government have invariably caused changes in the nature of political functioning. For example, in the local political units of the Middle Ages, extensive and detailed regulation of economic life was possible and in many ways desirable. The customs of the manor and the rules of the guilds restricted competition in the interest of all and controlled in most minute detail the conduct of their members. Local customs and local regulations largely determined the direction of industrial activity.[3] When national states arose, the theory that economic life should be under political control still survived, and the national governments of the new states attempted to formulate similar detailed regulations and enforce them over the area of the entire state. Labor, manufacture, and commerce, both domestic and foreign, were brought under the new

[1] Cooley, Social Organization, pp. 21–22; Giddings, Descriptive and Historical Sociology, pp. 429–432.

[2] The broad distinction between ancient and modern states is frequently expressed by saying that the former were essentially *socialistic* and the latter *individualistic*. The same principle is involved in Maine's generalization that society progresses from *status* to *contract*. Spencer traces the development of social organization from the system of *compulsory coöperation* to *voluntary coöperation*. While no one-sided law of progress is adequate, and while it is chiefly the form and degree of social regulation that change from time to time, it is nevertheless fair to hold that in the ancient state the freedom of the individual was largely limited, while in modern states the powers of government have been comparatively diminished.

[3] Seager, Introduction to Economics, pp. 2–6; Fisk, International Commercial Policies, pp. 14–16; Cheyney, Industrial and Social History of England, chaps. ii–iii.

national regulations, and little freedom was allowed to individual enterprise or to competition.[1] It was soon found, however, that conditions in the national state and in the economic life that developed in it made a large part of these regulations ineffective and many of them injurious.[2] Specific laws concerning labor and wages could not be enforced during the transition period between the stable, agricultural life of the Middle Ages and the mobile, competitive industry of the early towns.[3] Detailed specifications concerning qualities of goods and prices were inapplicable when methods and costs of production were changing rapidly during the Industrial Revolution.[4] Uniform laws worked hardships and attempts at discrimination created worse evils. Arguments against government regulation arose, therefore, and the policy of *laissez faire* was adopted.[5] The change in the form of the state from the medieval community to the modern nation was one cause of the new theory of state function.

392. Forms of government and state functions. Similarly, changes in the composition of government affected popular conceptions of state function. Throughout a large part of human history political authority was exercised by a narrow minority within the state, often for their own selfish interests. Accordingly, law was conceived by the masses as something enforced upon them by a more or less alien and hostile power. Freedom was associated with limitation on governmental action. Men desired protection against interference long before they dreamed of sharing in authority.[6] As long as law was merely a rule enforced by a superior, there was a distinct antithesis between what the state did for its

[1] Ingram, History of Political Economy, chap. iv; Seager, op. cit., pp. 6–12; Cheyney, op. cit., chap. vi.

[2] Smith, Liberty and Liberalism, chap. vi; Hume, History of England, Vol. II, chap. xvi.

[3] Seager, op. cit., pp. 12–19; Cheyney, Short History of England, pp. 244–245, 314–316, 337–339.

[4] Toynbee, The Industrial Revolution of the Eighteenth Century in England; Cheyney, Industrial and Social History of England, chap. viii.

[5] Ingram, op. cit., chap. v; Cunningham, Western Civilization: Medieval and Modern Times, Bk. VI.

[6] For example, the great documents associated with the growth of English democracy — Magna Charta, the Petition of Right, the Bill of Rights, etc. — provide for exemptions from political interference rather than for popular participation in government.

citizens and what they did for themselves. In modern democracies, however, state action expresses the will of most of the citizens.[1] Self-government means that the desires of the people may often be best carried out through the state machinery. Opposition to state action accompanied the origin of democracy, but a growing confidence in state action follows as democratic institutions develop.[2] As men secure a share in authority, they are interested in what the state can do for them as well as in what it can protect them against, and are willing to extend the scope of activity of an organization which acts as their agent and is under their control.

393. Democracy and expanding governmental activity. Hence, with the advance in constitutional, representative institutions and the widening of the electorate in modern states, the theory of *laissez faire* has been modified. Labor, industry, and commerce have again come under political control.[3] Government regulation aims to remedy the injustices and evils of free competition, and the state undertakes positive action on a large scale for the welfare of its citizens or for its own economic and political aggrandizement.[4] The growth of socialism as a political movement represents the extreme manifestation of this tendency. The functions performed by the state depend largely upon the composition of the organization that represents the state.[5]

394. Relativity of proper governmental functions. From a slightly different point of view it may be stated that "in a very homogeneous society, where all the people are of one race, one allegiance, and one religion, there will be a general adherence to the same customs, a general sympathy with the same ideals of life, and there will be little difficulty in maintaining laws which could only be imposed upon an alien race by means of extreme severity. In such a society, then, the sphere of the state can quite usefully be extended to functions, which, in a complex empire governing men of different nationalities and rival religions, will produce

[1] Hobhouse, Social Evolution and Political Theory, pp. 140–141, 190–192.

[2] Seeley, Introduction to Political Science, pp. 143–147.

[3] Farrer, The State in its Relation to Trade; Cheyney, Industrial and Social History of England, chap. ix.

[4] Hill, World Organization and the Modern State, chap. iii.

[5] Giddings, Democracy and Empire, chap. vi; Kelly, Government or Human Evolution: Individualism and Collectivism, pp. 505–533.

confusion and the breaking-up of laws. One cannot, then, lay down general rules as to the functions of the state which will apply to all times and places. Our only general rule will be that, seeing that the state is a form of association and is limited by the fact that its functions have to be crystallized in definite institutions, expressed in universal laws, and in large measure carried out by the use of compulsion, their sphere must be determined by considering how far the objects of social coöperation can be furthered by methods of this kind, or how far, on the other hand, the nature of the methods necessary will itself conflict with the ends desired." [1] "What government does must arise from what government is; and what government is must determine what government ought to do." [2]

395. Controversy over proper scope of state activity. It is around the question of what the state should do that chief controversy has been waged and that interest has centered. At present there are many who question the right of the state to interfere with vested interests or with individual inclinations. There are many others who cry to the government for help, assuming that the state can and must give aid.[3] The difference between those who oppose and those who favor freedom of action is often more apparent than real, the nature of the interference rather than the principle of interference itself being thought of. "The railway magnate restricts his own liberty by pooling arrangements, but objects to interference by the shipper. The slave owner wanted freedom of trade, but scouted freedom of man. The manufacturer demands protection against his foreign competitor, but objects to factory laws. The cotton grower acclaims the rise of prices brought about by manipulation on the exchange, while the spinner decries the liberty of speculation. The factory owner joins the selling bureau which restricts output or fixes prices, but objects to the tyranny of the labor union. The labor union adopts provisions relating to apprenticeship, the open shop, and the boycott, but opposes lockouts and trusts." [4]

[1] Hobhouse, op. cit., pp. 188–189.

[2] Wilson, The State, p. 613.

[3] Goschen, "Laissez Faire and Government Interference," Address to the Edinburgh Philosophical Institution.

[4] Seligman, Principles of Economics, p. 171.

396. Classification of theories of state function. Excluding the doctrines of the anarchists, who believe that the state could be done away with entirely,[1] the theories concerning the sphere of the state may be roughly divided into (1) the individualistic, or *laissez-faire*, theory; (2) the socialistic, or collectivistic, theory; and (3) the general-welfare, or compromise, theory.[2] The individualist holds that the scope of state activity should be restricted to the narrowest limits consistent with the maintenance of peace, order, and security. The socialist contends for a maximum rather than a minimum of government, believing that the state should actively promote the common economic, moral, and intellectual interests of the people. Those holding the middle position realize that no hard and fast rule governing the division of functions between state and individual can be laid down, but that as the conditions and needs of society change, the nature of state activities must change correspondingly, each case being decided separately if necessary. This does not mean that no action should be taken until evils arise and that they should then be tinkered with until they disappear. This attitude, often taken by so-called "practical politicians," is neither scientific nor effective. Attacking symptoms rather than the disease is more likely to drive the illness inward toward a vital part than to effect a cure. "If any general rule may be formulated, it must be deduced from a consideration of the question whether the purpose of state intervention in a given case is for the common good, whether the proposed action is likely to be effective, and, if so, whether it can be done without doing more harm than good."[3]

II. Individualism

397. Early foundations of individualism. The political ideals of the Teutons, the religious teachings of Protestantism, and the belief in natural law prepared the way and furnished certain elements for the individualistic conception of state functions.

[1] Zenker, Anarchism; Eltzbacher, Anarchism, trans. by Byington; Yarros, A Plea for Liberty; Tucker, Instead of a Book.

[2] A division into five solutions, the opportunistic, the socialistic, the individualistic, the compromise, and the organic, is made in McKechnie, The State and the Individual, Part II, chap. xii.

[3] Garner, Introduction to Political Science, pp. 321–322.

Individualism as a distinct political doctrine, however, arose during the latter part of the eighteenth century,[1] largely as a reaction against the evils of overgovernment in Europe[2] and in connection with the changing economic principles concerning the proper relation of the state to industry and commerce.[3] The mercantile system,[4] which obtained from the early part of the sixteenth century until late in the eighteenth century, and according to which each state aimed to increase its stock of precious metals, maintain a favorable balance of trade, increase its population, and foster its manufactures, had resulted in an enormous expansion of governmental activities in the new national states of the modern world. In carrying out these theories statesmen turned to the law, and restrictions were multiplied until mercantilism became practically synonymous with governmental interference.

398. Development of individualism. During the eighteenth century the expansion of international relations and the growth of the foreign market tended to modify the intense rivalries of the separate states and led to a broader and more cosmopolitan view. The disadvantages of the restrictive system began to outweigh its advantages, especially in England, whose commercial position had become so strong that her industries were crippled by the very laws that had protected their beginnings.[5] The doctrine of natural law, coming into prominence as the theoretical basis for revolution and democracy, emphasized private property and individual liberty, and this was interpreted to uphold noninterference in internal industry and in external trade. The Physiocrats[6] in France believed in natural

[1] Michel, L'Idée de l'État, Introduction and Bk. III.

[2] Johnson, Age of the Enlightened Despot, pp. 254–259.

[3] Individualism is mainly an economic theory and is closely connected with the evolution of private property. See Kelly, Government or Human Evolution: Individualism and Collectivism, Bk. I, chap. iii.

[4] Represented by the policies of Cromwell in England, Colbert in France, and Frederick the Great in Prussia; and by writings such as Serra, A Brief Treatise on Causes which make Gold and Silver abound where there are no Mines; Mun, England's Treasure by Foreign Trade: or the Balance of our Trade the Rule of our Treasure. See Cunningham, Growth of English Industry and Commerce in Modern Times, Part I; Schmoller, The Mercantile System, trans. by W. J. Ashley.

[5] Cunningham, op. cit., Part II.

[6] Turgot, Gournay, and Quesnay were the leaders in this movement, and Quesnay's Tableau économique was the best expression of their views. See Ingram, History of Political Economy, pp. 57–70; Higgs, The Physiocrats.

rights and, as a corollary to their economic principles, taught the political doctrine that the government should not interfere with private enterprise. Adam Smith, in his "Inquiry into the Nature and Causes of the Wealth of Nations," taught the doctrines of free trade, noninterference, and natural law. He opposed governmental restrictions and emphasized the importance of allowing each individual to follow his own self-interest as the best means of promoting national prosperity. The doctrine of natural liberty was defended and developed by Ricardo and Malthus in England, by Bastiat, Say, De Tocqueville, and Taine in France, and by Kant, Fichte, and Humboldt[1] in Germany. More recently, Laboulaye[2] and Leroy-Beaulieu[3] in France and Mill[4] and Spencer[5] in England became the leading exponents of the individualistic principles.

399. Essential principles of individualism. While there are many different degrees of individualism, varying from an ill-defined desire to protect the liberty of citizens against unnecessary interference at the hands of a bureaucratic despotism to a deliberate attempt to abolish government entirely, the following general statement indicates the individualistic point of view.[6] The theory of individualism considers the state an evil, necessary only because of the ignorance and selfishness of mankind. Its sole duty is to protect the life, liberty, and property of individuals against fraud or violence. Individualism regards restraint in itself as undesirable, and holds that every extension of state function is a corresponding narrowing of individual liberty. From this point of view the state is justified in interfering only for the purpose of protecting its citizens against worse interference on the part of other citizens and, in the opinion of many individualists, is not justified in further activity, even for

[1] Humboldt's Essay, written in 1791, but for political reasons withheld from publication until 1852, is one of the ablest arguments against extensive state functioning. This essay, under the title Sphere and Duties of the State, has been translated into English by J. Coulthard.

[2] L'État moderne et ses limites.

[3] The Modern State.

[4] Essay on Liberty; Political Economy, Vol. II, Bk. V.

[5] Social Statics; The Man *versus* the State.

[6] For brief statements of the modern theory of individualism, see Donisthorpe, Individualism; Mackay (editor), A Plea for Liberty; Sidgwick, Elements of Politics, chaps. iii–x; Garner, Introduction to Political Science, pp. 274–282; Willoughby, Nature of the State, pp. 320–337.

purposes admittedly beneficial.[1] Its function is to restrain not to promote. Individualism is frequently accompanied by the belief that, as the sense of order and morality becomes more perfect, the need for state action will diminish, and that the ideal condition would be that in which the state no longer exists because no longer needed. The chief duty of the state becomes therefore to prepare for its own demise.[2]

400. Arguments supporting individualism. Individualism, as a theory of state function, has been supported by numerous arguments, but a broad classification of these arguments places them under three main heads:[3] (1) on ethical grounds it is claimed that justice and the best interests of the individual demand freedom from state interference; (2) on scientific grounds it is argued that individualism is in harmony with nature and the principles of evolution; (3) on economic grounds it is held that freedom from restraint is profitable and that competition under economic law secures the best results. Each of these lines of argument will be briefly stated and criticized.[4]

401. Individualism as a natural right. One phase of individualism was closely connected with the doctrine of natural rights and the social contract. The political philosophers of the later eighteenth and early nineteenth centuries greatly emphasized the private rights of men to life, liberty, and property. These were considered inalienable under the laws of nature; and the purpose of the state was conceived to be merely the protection of these rights. It was natural that, as democracy arose, the idea of self-government

[1] Adam Smith would have restricted the functions of government to three: to protect the nation from the attacks of other nations, to protect each person in the nation from the injustice and violence of other individuals, and to carry on certain educational or similar institutions which were of general utility, but not to any one's private interest. Many of his successors would have cut off the last duty altogether. — Cheyney, Industrial and Social History of England, pp. 227–228.

[2] At this point, to which individualism logically leads, it shades off into anarchism. For statements of the desirability of the ultimate disappearance of the state, see Willoughby, op. cit., pp. 321–322.

[3] A broader distinction between individualism based upon abstract rights and upon political and economic expediency is often made. See McKechnie, The State and the Individual, chaps. xv–xvi.

[4] Good brief statements of the arguments for and against individualism may be found in Garner, op. cit., pp. 282–298; Leacock, Elements of Political Science, pp. 358–368.

should be confused with the similar idea of individual freedom, and that men who were opposing the arbitrary and extensive action of unpopular governments should uphold the theory of noninterference. The idea of self-government was associated with the idea of a minimum amount of government.[1] In Germany, France, and England, the natural rights of men were invoked to limit the scope of state activity; in America, where a long contest had been waged against the royal governors[2] and against the restrictions of English control, an intense belief in individual rights accompanied the formation of the Union.[3]

402. Fallacies in the theory of natural rights. This basis of individualism was completely destroyed when the fallacies inherent in the philosophical theory of natural rights were pointed out.[4] Since no individual rights exist except those created and safeguarded by the state, there can be no legal limit to the scope of state function; and any desired limitation of governmental activity must be based on other grounds. Besides, the protection of life, liberty, and property involves a certain amount of state interference, and the degree to which the state shall act in order to protect even the so-called natural rights must rest on a more or less utilitarian basis.[5] Complete individual freedom would either compel every individual practically to refrain from action or would introduce a contest of all against all.[6]

403. Individualism and individual development. Aside from the natural-rights basis of individualism, it is sometimes argued that ethical considerations require the state to limit its interference in order that the individual may develop harmoniously, may become

[1] Absolute claims to exemption from the control of government have been set up in behalf of rights of individual liberty, rights of conscience, contractual and proprietary rights, rights of the church, the family, and the voluntary association, rights of subject nationalities, and the rights of man considered generally. — McKechnie, The State and the Individual, p. 227.

[2] Beard, American Government and Politics, pp. 4–5; Greene, The Provincial Governor, chaps. viii–x.

[3] In the writings of Jefferson, Madison, Paine, and others. See Merriam, American Political Theories, chaps. ii–iv; Smith, Spirit of American Government, chaps. xi–xii.

[4] Ritchie, Natural Rights; Willoughby, Nature of the State, pp. 103–115.

[5] Sidgwick, Elements of Politics, chap. iv.

[6] Ward, "Political Ethics of Spencer," in Annals of the American Academy of Political and Social Science, Vol. IV, No. 4.

enterprising and self-reliant, and may realize fully the ends of his existence.[1] Governmental interference is accused of preventing the development of character and of lowering the social level. Against this point of view, in spite of its element of truth, it may be pointed out that character is developed as much through discipline and restraint as through freedom, that the most highly developed man is the social, not the natural man, and that each individual owes a large part of his character to his social and political environment. That the individual could attain a higher development or a more desirable personality if freed from political restraint or from the limitations imposed upon his freedom of action by the necessities of social life is not likely.

404. Individualism a corollary of natural evolution. On a scientific basis individualism has been supported by the belief that it is in harmony with the doctrine of evolution.[2] It is held that by leaving each individual free from interference the natural struggle for existence will eliminate the unfit elements in society and allow only the strong and the fit to survive. This theory assumes that self-interest is the basic principle of human action, that each individual knows his own interests best and in the absence of restrictions will follow them, that the free competition that results from the efforts of each individual will develop the highest human possibilities and advance the welfare of all. Against this line of reasoning it may be pointed out[3] that altruism as well as self-interest is a motive in human action, that men are often ignorant of their own best interests or unwilling to follow them,[4] and that in the absence of restraint free competition is sometimes impossible, the contesting parties being too unequal in strength.[5] State

[1] Humboldt, Sphere and Duties of the State, chaps. i–ii; Mill, Political Economy, Vol. II, pp. 561–567.

[2] This point of view is worked out especially by Spencer in The Man *versus* the State.

[3] Willoughby, op. cit., pp. 326–329.

[4] For example, in education, sanitation, and the like, many are ignorant of their best interests until compulsion is applied.

[5] For example, in competitive bargaining between labor and capital in the present organization of economic society, the single laborer is too weak to compete fairly. By means of government regulation or by trade-unions, which limit the freedom of the individual laborer, a truer competition results. See Taussig, Principles of Economics, Vol. II, pp. 262–266; Seager, Introduction to Economics, chap. xxii.

action, by equalizing conditions, may actually promote real competition and raise its moral plane.[1]

405. Political evolution psychic rather than physiological. Finally, the assumption that individualism is a corollary of evolution fails to consider the essential difference between the development of mankind and of the lower forms of life. While the latter are at the mercy of their environment and are transformed by it, man transforms his environment and can thus remove the great waste that the process of natural selection otherwise necessitates. Besides, since the survival of the "fittest" means only the fittest under given circumstances, and not necessarily the survival of the best, man, by improving those circumstances, can make the fittest a far more desirable product.[2] Besides, struggle takes place between groups — races, tribes, states — as well as between individuals, and the survival or success of a given group does not guarantee that its individuals separately are the fittest or the most desirable types. The law of evolution holds good among men in its psychic rather than in its physiological aspects,[3] and men are justified in using all their efforts to restrict the working of the competitive principle when it is found to be harmful to that development to which men rationally attach value. In consideration of the nature of human evolution,[4] a more intelligent law of state function might be formulated as follows: "First, where the Darwinian law in its application to social man is too cruel or wasteful, or works in any way to destroy those who from the broad and highest standpoint of race improvement are best fitted to survive, to that extent the law is to be checked or regulated if possible by the organized effort of society. Secondly, where the law does not

[1] Adams, "Relation of the State to Industrial Action," in American Economic Association Publications, 1887; Ely, Outlines of Economics, chap. xxvi.

[2] Criticisms of the individualistic doctrine as based upon evolutionary principles may be found in Ward, Psychic Factors of Civilization; Ritchie, Darwinism and Politics; Huxley, "Evolution and Ethics," in Collected Essays, Vol. IX.

[3] Ward, "Mind as a Social Factor," in Mind, Vol. IX, No. 36, pp. 563–573.

[4] For an extended discussion of the distinction between human and natural evolution and the essential injustice in the latter, see Kelly, Government or Human Evolution: Justice, Bk. II; and for the application of this distinction to the scope of state activities, see Kelly, Government or Human Evolution: Individualism and Collectivism.

so operate as to eliminate those essentially unfit to survive, the impeding cause is to be removed and the operation of the law rendered possible." [1]

406. Individualism as an economic concept. The chief defense of individualism has rested upon economic grounds, the claim being that it is more profitable in industry and commerce for every one to follow his own interests free from governmental restraint. This argument may be stated as follows: "If individuals are left free to follow their own choice in the use of their capital, the sale of their labor, or the renting of their property, the liberty of each will be in the general interest of all. For capital and labor will by this means be directed to those operations in which they are most profitably employed, and in which the remuneration for them is in consequence the highest. A similar reasoning applies to prices; for if articles are freely exchanged, an increased demand for any commodity will tend to raise the price and to call forth an additional supply, until by the operation of these balanced forces an equilibrium is obtained. International exchange of goods, if left unrestricted, will be effected in the quantity and kind most profitable to those making the exchange: every country will prefer to direct its labor towards the production of those articles for which it has the greatest adaptability and will rely on its trade with other nations to supply the commodities whose production it finds relatively difficult. We have thus a general economic harmony in which every individual seeks to obtain the greatest advantage for himself to the general well-being of all. In such a state of things government interference becomes needless and necessarily injurious." [2]

407. Evils of governmental interference with economic laws. The advocates of this theory point to the unsuccessful attempts of states in the past to interfere with the working of economic laws; they note the evils that resulted from excessive and meddlesome state regulations, and hold that better economic results are obtained by leaving the conduct of industry as far as possible to private enterprise.[3] They also believe that most things are done

[1] Willoughby, Nature of the State, pp. 335–336.
[2] Leacock, Elements of Political Science, pp. 364–365.
[3] Garner, Introduction to Political Science, pp. 285–287.

more efficiently by individuals than by governments, since the people understand their own business better and are more interested in its success than governmental officials, who are notoriously extravagant and unenterprising.[1] Governmental action shows a marked tendency toward formalism and red tape. Just because the state is the most ancient and elaborate form of social organization, it is apt to be mechanical, rigid, and costly.

408. Free trade. The effects of these doctrines, which were put into practice, especially in England,[2] during the early part of the last century, were momentous. Restrictions were removed both from internal industry and trade and from foreign commerce. The resulting free movement of capital, labor, and commodities was accompanied by an enormous increase in the volume of production and in many ways by marked improvements in economic conditions.[3] Certain unforeseen conditions soon arose, however, which compelled states, while retaining their fundamental basis of individualism, to modify their attitude and to extend the scope of their activities. The cosmopolitan theory of free trade, while advantageous for England with her advanced methods of industry, proved dangerous to the economic existence and national interests of other states, and a reaction toward protection set in.[4]

409. Free competition. Similarly, the idea that free competition among buyers and sellers would automatically adjust prices according to the cost of production was nullified by the formation of trusts and monopolies and by agreements among sellers, which interfered with the free play of economic forces.[5] Monopoly prices follow quite different laws from those that govern free competition;[6] and modern states have in many cases been compelled to use their legislative power to protect their citizens against extortion.[7] Natural monopolies in particular have come under government regulation,[8]

[1] Rae, Contemporary Socialism, p. 409.

[2] Cheyney, Industrial and Social History of England, pp. 228–235; on the growth of paternalism in England, see Lowell, Government of England, Vol. II, chap. lxv. [3] Hobson, Evolution of Modern Capitalism, chap. xvii.

[4] See below, Chapter X, sections 446–456.

[5] Ripley (editor), Trusts, Pools, and Corporations; Jenks, The Trust Problem.

[6] Ely, Monopolies and Trusts, chap. iii. [7] Macrosty, Trusts and the State.

[8] Especially railroads. See Johnson, American Railway Transportation, Parts III–IV; McPherson, Transportation in Europe, chap. viii.

and modern states, especially in their municipal units,[1] own and operate various forms of enterprise.

410. Reaction toward governmental regulation. The attitude of modern governments toward labor also shows a decided reaction against the individualism of a century ago.[2] A general recognition of the idea of social solidarity and of social duties has caused a readjustment of the rights and privileges of a growing laboring class to accord with modern conditions.[3] Legislation for this purpose began in England,[4] where the evils of the *laissez-faire* principles as applied to new industrial conditions first became apparent, and spread later to the remainder of Europe and to America.[5] States regulate conditions of employment, fixing age limits for child labor,[6] limiting the hours of labor, and protecting employees against accident or disease due to dangerous or unhealthy trades. Laws affecting the conditions of remuneration have compelled regular and frequent payment of wages in cash, and in some states have fixed a minimum wage.[7] Employers' liability for injuries sustained by workmen has been extended and compulsory insurance of laborers against accident, illness, old age, and death has been founded.[8] At present the line between protective legislation, guaranteeing the individual against injury, and paternal legislation, compelling the individual in a positive direction for his own good, is difficult to draw; and individualism in its economic aspects is to a considerable degree discredited in theory and disregarded in practice.

411. General fallacies of individualism. A few fallacies in the general conception of individualism may also be pointed out.[9] The assumption that the state is an evil is not borne out by facts. While

[1] Darwin, Municipal Trade; Bemis (editor), Municipal Monopolies; "Municipal and Private Operation of Public Utilities," in National Civic Federation Report, 1907. [2] Adams and Sumner, Labor Problems.

[3] Brooks, The Social Unrest; Dicey, Law and Opinion in England.

[4] Sidney and Beatrice Webb, Problems of Modern Industry, chap. iv; Hutchins and Harrison, History of Factory Legislation.

[5] Seager, Introduction to Economics, chap. xxii; Jevons, The State in Relation to Labor. [6] Murphy, The Case against Child Labor.

[7] Clark, Labor Movement in Australia.

[8] Willoughby, Workingmen's Insurance; Taussig, Principles of Economics, Vol. II, chap. lviii; Seager, Social Insurance.

[9] Two distinctions concerning the method of state control may help to explain much of the objection to governmental activities. Control of certain interests at

particular states may have governed badly and while governments have frequently made mistakes, history shows that the progress of civilization is largely due to political action, and that the transition from a lower to a higher stage of culture is intimately connected with the rise and development of state organization and activities. It is also a fundamental error to consider the authority of the state as inherently hostile to liberty.[1] Liberty is possible only under authority, and the restrictions placed by the state upon certain forms of action guarantee freedom for all within the remaining field. The state promotes as well as restricts, and often increases freedom by removing obstacles or hindrances. It is also an error to consider the interests of individuals as essentially distinct from those of the state, or as opposed to them in nature. Man considered apart from the other members of society is a mere abstraction; his interests instead of being distinct are bound up in the interests of his fellow men; his own nature and character are largely determined by the social environment in which he lives. There is no province which is absolutely that of the state in the sense of excluding individual action, and there is equally no province of the isolated individual which excludes the organized life of society as manifested in the state.[2]

III. Socialism

412. Socialism no new conception. The socialistic theory of state function, which places few limits upon the extent of political activities and exempts almost no phase of individual life from public control, is not a new conception. It is in many respects a return to the theory of the early state when public and private interests were not distinguished and when political, ethical, and social considerations were confused. In the evolution of many kinds of property,

the hands of a centralized national organization may be opposed when similar action taken by local authority would not be objectionable. See Pollock, History of the Science of Politics, p. 123. Likewise, control through administration may appear oppressive when control through legislation would seem reasonable. See McKechnie, The State and the Individual, pp. 268–269. Individualists often object to the method of political control rather than to the control itself.

[1] This has already been discussed. See above, Chapter VIII, sections 316–326.

[2] Ritchie, Principles of State Interference, p. 11; McKechnie, op. cit., pp. 167–170, 264–269.

communal ownership preceded private ownership; in ancient states almost all forms of industry were regulated under public authority.[1] Strong elements of socialism existed in the organized life of the Greek cities.[2] State intervention regulated life in all its aspects; but this early communism was unconscious and immature, existing largely because the processes of differentiation had not yet been developed. Besides, the small area of early states, making it possible for the whole community to share directly in the entire life of the state, and the existence of a large slave population, giving the citizen-class leisure to acquire culture and to attend to public affairs, created peculiar circumstances which prevent a fair comparison between their political civilization and that of the present day. Traces of socialism were scattered also through the Middle Ages, especially in the organizations of the Roman Catholic Church;[3] and the whole feudal system was in some respects a vast collectivist scheme. The idealistic plans of government drawn up by political philosophers usually contained socialistic principles in greater or less degree;[4] and numerous attempts to create socialistic communities on the basis of voluntary association were made during the past two centuries, especially in the United States.[5]

413. Conditions leading to modern theory of socialism. The origin of the modern theory of socialism was closely associated with the Industrial Revolution, which began in England toward the end of the eighteenth century, and with the parallel revolution in thought, which found its most prominent expression in France.[6]

[1] Letourneau, Property, its Origin and Development, chap. xx; Spencer, Principles of Sociology, Vol. II, chap. xvii.

[2] Willoughby, Political Theories of the Ancient World, pp. 57–65.

[3] The various religious orders usually rested on a communistic basis. See Woolsey, Communism and Socialism, pp. 24–41; Emerton, Medieval Europe, pp. 572–581; Harnack, Monasticism.

[4] For examples, Plato, Republic (fourth century B.C.); More, Utopia (1516); Campanella, City of the Sun (1623); Bacon, New Atlantis (1627); Harrington, Oceana (1656); Morelly, Basiliade (1753); Cabet, Voyage en Icarie (1839); Bellamy, Looking Backward (1887); Morris, News from Nowhere (1892). See Spargo and Arner, Elements of Socialism, chap. xvi; Kaufmann, Utopias, or Schemes of Social Improvement.

[5] Woolsey, op. cit., pp. 42–84; Nordhoff, Communistic Societies of the United States; Goldwin Smith, "Communism in the United States," in Essays on the Questions of the Day, Appendix.

[6] Kirkup, History of Socialism, pp. 14–18.

Not until industry had been organized into a vast social operation as a result of the use of artificial power and machinery, the rise of capitalism, and the establishment of the factory system, could the economic principles of socialism be formulated.[1] Not until conceptions of the supremacy of reason and the dignity of labor, and ideals of freedom and equality had arisen could the philosophical and political principles of socialism be formulated.[2] In England the new economic evils of the factory system were most obvious;[3] in France the ancient social and political evils of a decadent feudalism were most apparent.[4] Individualism offered little promise of improvement, hence the idea of collective effort, either voluntary or under political direction, logically followed.

414. The founders of socialism. As early as 1793, William Godwin, in his "Inquiry concerning Political Justice," propounded socialistic doctrines.[5] In 1817 Robert Owen laid his scheme for a socialistic commune[6] before the poor-law committee of the House of Commons; and in the same year the speculations of Saint-Simon[7] in France took a socialistic direction. Until 1850 there were parallel developments in France and in England, Fourier, Proudhon, and Louis Blanc carrying on the movement in France,[8] while the Christian Socialists, led by Maurice and Kingsley, took up the work begun by Owen in England.[9] After the middle of the century, the most prominent leaders of socialism were German thinkers, especially Lassalle, Rodbertus, Engels, and Marx;[10] and the movement became international in its principles and in its organization.[11]

[1] Hillquit, Socialism in Theory and Practice, chaps. iii–iv.

[2] Spargo, Spiritual Significance of Modern Socialism.

[3] Hobson, Evolution of Modern Capitalism, chaps. xi–xvii; Cheyney, Industrial and Social History of England, pp. 235–239, 244–262.

[4] Lowell, Eve of the French Revolution; Robinson and Beard, Development of Modern Europe, Vol. I, pp. 203–217.

[5] Godwin's views leaned toward philosophical anarchism.

[6] Podmore, Life of Robert Owen; Seligman, Owen and the Christian Socialists.

[7] L'Industrie (1817); Le Nouveau Christianisme (1825). See Janet, Saint-Simon et le Saint-Simonisme.

[8] Kirkup, History of Socialism, pp. 19–54.

[9] Ibid. pp. 55–68; Kaufmann, Theory of Christian Socialism; Headlam, Christian Socialism.

[10] Kirkup, op. cit., pp. 69–154; Rae, Contemporary Socialism, chaps. iii–iv; Ely, French and German Socialism in Modern Times.

[11] Kirkup, op. cit., chap. viii; Winterer, Le Socialisme international; Spargo and Arner, Elements of Socialism, chap. xxi.

415. Early socialism idealistic. In its first phases socialism was a humanitarian rather than a political movement. It proceeded from private effort and experiment. The early socialists knew little of the true laws of social evolution and, influenced by the doctrines of natural law and of the social contract, they had excessive faith in the possibilities of human nature and in the ability of men to create artificially a perfect social structure.[1] This utopian socialism, in keeping with the idealistic philosophy of the period, led to the establishment of communistic societies and to the belief that the world would be converted by the successful results of these experiments. Modern or scientific socialism, resulting largely from the efforts of Marx,[2] arose when speculation gave way to research, when positivism destroyed the former idealism, and when the intricacies of modern economic life and the importance of economic conditions in the process of social evolution were better understood.[3]

416. Early socialism autocratic and revolutionary. Early socialism, especially that of Owen and Saint-Simon, was marked by an autocratic spirit.[4] At present socialism tends to ally itself to the most advanced forms of democracy,[5] claiming in fact that it is the economic complement of democracy and that future democratic development will be largely in the direction of economic equality.[6]

[1] The most elaborate and ingenious utopia of this period was the *Phalange*, devised by Fourier. See Gatti de Gamond, Fourier et son système.

[2] Spargo, Karl Marx, his Life and Work.

[3] Hillquit, History of Socialism in the United States, pp. 16–18; Kirkup, op. cit., chap. xii.

[4] Owen had no faith in the political reforms of 1832. He appealed to royal personages and to leading statesmen, and believed in the necessity of paternal guidance until the workmen were trained to rule themselves. Saint-Simon wished to supersede the feudal aristocracy by an aristocracy of labor, and first proposed his scheme to Louis XVIII. Socialism originated during the reaction against the democratic ideas of the French Revolution and was for a time influenced by the reactionary political tendencies of that period.

[5] A socialist state without democracy would be an impossibility. . . . The destruction of capitalism must be the work of the whole people, and there is no reason to suppose that the ideals of democracy which have become so firmly intrenched will be abandoned when their realization becomes possible.— Spargo and Arner, Elements of Socialism, p. 217.

[6] As we can follow through the feudal epoch the development of the monarchical idea which was to destroy feudalism, and as we can follow across the monarchical epoch the development of the national idea which was to throw dynastic interests back into the second place, so we can follow across the history of

Socialism as a political movement first took a revolutionary form, aiming at the immediate overthrow of the system of capitalism. Such was the purpose of the socialists who took an active part in the revolutions of 1848 in France, Germany, and elsewhere.[1] The failure of that movement and a realization of the difficulties involved in social improvement led to the adoption of constitutional and legal methods of securing practical reforms.

417. Socialism in present politics. At present socialistic political parties are powerful forces in actual government. In continental states, where party groups are numerous, they often hold the balance of power, and they have recently become of considerable importance in England and in the United States.[2] Numerous reforms in social legislation have been either the direct work of socialism in politics, the indirect results of its influence, or concessions to its strength. The evils pointed out by socialism are becoming generally recognized, a serious feeling of social responsibility is replacing the individualism of the past century, and many socialistic doctrines have been given practical application in modern states.[3]

418. Elements of present socialistic theory. The present theory of socialism includes, first, a destructive criticism of the existing organization of society, especially in its economic phases,[4] and, secondly, a constructive program for the transfer to the state of control over land and the means of production, limiting private property to things actually used by each individual.[5] The state

the last two centuries the development of economic and industrial interests, the social idea, which is destined to overthrow the national.— M. Monod, in Revue Historique.

[1] Largely through the influence of Louis Blanc. See Kirkup, History of Socialism, pp. 40–54; Andrews, Historical Development of Modern Europe, Vol. I, chaps. viii–x. Chartism in England was a similar manifestation. See Gammage, The Chartist Movement.

[2] For socialism in modern politics, see Spargo and Arner, Elements of Socialism, Part IV; Hillquit, Socialism in Theory and Practice, Part I, chap. vi, and Appendix; Ogg, Governments of Europe, Index, "Social Democrats."

[3] For a good discussion of the relation of modern states to the problems of industrial organization, see McVey, Modern Industrialism, Part III. For a summary of the accomplishments of socialism, see Kirkup, op. cit., pp. 223–235.

[4] On socialism as a criticism, see Spargo and Arner, op. cit., Part I; Ghent, Our Benevolent Feudalism; George, The Menace of Privilege; Hunter, Poverty; Reeve, The Cost of Competition.

[5] For the constructive theory of Socialism, see Spargo and Arner, op. cit., Parts II–III; Ely, Socialism and Social Reform, Part I; Schäffle, Quintessence of Socialism; Hillquit, op. cit., Part II.

would thus manage all industrial enterprises and would replace private initiative and competition by state control through managers and laborers employed, paid, and directed by governmental departments.[1] In addition, the state would enter upon an expanding field of activity for the purpose of increasing the social welfare of its citizens. This does not mean necessarily that socialists are hostile to individual liberty. They believe that the real freedom of each individual may be better secured through state action than through the policy of *laissez faire*, which permits unchecked competition.[2]

419. Socialistic theory of state functions. The necessary functions of the socialist state are outlined by an able supporter of this theory as follows: "Any state must maintain order and suppress violence. It must have the power to define crime and apprehend and punish criminals, and to restrict the liberty of those persons who by their conduct would deny equal liberty to others. It must determine the manner in which the political activities of the individual shall be exercised. It must determine the rights and limitations of the ownership of property. It must enforce contracts and administer justice in civil affairs. It must have the power to collect taxes and use the proceeds of taxation in the public interest. And it must deal with foreign states in the adjustment of international relations and have the power to protect itself from external aggression. In addition to these general powers, the socialist state must have the power to own and operate industries and transportation systems of all kinds, in so far as they can be so owned and operated to the public advantage. It must have the power to regulate private and coöperative industries and to protect the broader interests of all the people against the special interests of individuals and groups. It must guarantee a minimum compensation to labor and provide opportunities for its productive employment. It must have the power to make and enforce rules of sanitation. It must administer a comprehensive system of social insurance. It must

[1] On the socialist state, see Spargo and Arner, op. cit., chaps xviii–xix; Hillquit, op. cit., Part I, chap. v; Kelly, Twentieth Century Socialism, Bk. I, chap. iii; Bk. III, chaps. i–ii; Ely, op. cit., Part I, chap. iv.

[2] On socialism and social reform, see Hunter, Socialists at Work, chaps. vi–viii; Ensor, Modern Socialism, chaps. xxii–xxviii.

provide full educational opportunities for all, both cultural and technical, and must provide opportunities for the advancement of knowledge through research and experimentation." [1]

420. Method of establishing socialism. Socialists are not agreed as to the process by which a socialistic organization of society may be accomplished.[2] Revolutionary socialists anticipate a general uprising of the masses, who will establish a socialistic state by overthrowing or securing control of existing governments and confiscating property in private hands. Other less radical socialists believe that this revolution will take place voluntarily, approved by all because of the increasing evils of the present system. The majority of intelligent socialists look forward to socialism as an ideal to be realized by gradually extending governmental functions and by increasing public control over great industrial combinations.[3]

421. Distribution of income in the socialistic state. Socialists differ also in the details of their proposed organization, especially in the method of distributing income among the members of a socialistic state. Some believe that, under the economies and improved production of socialism, distribution would present few difficulties because of the abundance of wealth. Others recommend that everything should be held in common, each producing according to his capacity and receiving according to his needs. Another group advocates equality of wages, sometimes with the proviso that all persons perform equal amounts of labor, according to a system of units of labor-time, based on the attractiveness or repulsiveness of the occupation. The plan upheld by the majority of socialists bases wages on efficiency. Production, as a department of government, would be controlled by elected officials, who would manage all industry, assign laborers to their duties, and arrange wages and promotions.[4] While aiming at approximate equality of income, chief emphasis would be laid on distributing to workers a maximum quantity of goods for a minimum time spent in labor.

[1] Spargo and Arner, Elements of Socialism, p. 216.

[2] Kampffmeyer, Changes in the Theory and Tactics of the Social Democracy; Ely, Socialism and Social Reform, Part I, chap. viii.

[3] Wilshire, Socialism Inevitable; Bernstein, Evolutionary Socialism.

[4] For an elaborate scheme of organization under socialism, see Kelly, Government or Human Evolution: Individualism and Collectivism, pp. 387–432.

422. Advantages of socialism. Among the advantages[1] claimed for socialism is that it will remedy the injustice, wastefulness, and haphazard methods of present industry. It is pointed out that unrestrained competition leads to unemployment, low wages,[2] cheap goods, and overproduction. Socialists claim that under private ownership of land and the increasing use of machinery and combination of capital, the laborer, unable to apply himself directly to the means of production, must make a forced bargain with landlord or capitalist; that under this system the laborer receives far less than his proper share of the product,[3] landlords and capitalists receiving enormous rents and profits;[4] and that as population increases and the present system of industry is further developed, the gulf between capitalists and laborers will widen, causing finally the overthrow of the present system and the establishment of a socialistic state.[5] It is argued as a matter of justice that the land and its resources should belong equally to all,[6] and as a matter of expediency that the other instruments of production should be socially controlled in order to secure the good of the greatest number.

423. Economic advantages. In pointing out the economic advantages of their system, socialists emphasize the enormous extravagance and economic waste involved in the duplication of services under the existing organization of industry.[7] Socialism, they claim, would secure economy of production, since the needs of the community could be scientifically and accurately estimated and the available land, labor, and capital so apportioned as to produce just the kind and quantity of goods needed. In this way the duplication of plants, the overproduction of particular goods, the expense

[1] For brief general statements of the advantages and disadvantages of socialism, see Garner, Introduction to Political Science, pp. 301–308; Seager, Introduction to Economics, pp. 525–531; Ely, op. cit., Parts II–III.

[2] Hobson, Problems of Poverty; Devine, Misery and its Causes.

[3] Menger, The Right of Labor to the Whole Product.

[4] Veblen, Theory of the Leisure Class.

[5] The most elaborate development of this line of reasoning is found in Marx, Capital. See also Hyndman, Economics of Socialism; Spargo and Arner, op. cit., chaps. xii–xiii.

[6] Cox, Land Nationalization; Dawson, Unearned Increment; George, Progress and Poverty.

[7] Hyndman, Commercial Crises of the Nineteenth Century; Simons, The American Farmer; Spargo and Arner, op. cit., chap. iii.

of advertising and competitive selling, and the excessive profits of middlemen and speculators could be avoided.[1] Besides, the production of goods that are harmful rather than beneficial could be better regulated, thus improving the health and happiness of the entire community. The saving in productive power secured by this more rational adjustment could be applied to increase the amount of goods produced, to shorten the hours of labor, or both.

424. Moral advantages. From a moral standpoint it is claimed that socialism would replace self-interest as the leading motive of human action by a broad, altruistic desire for social usefulness.[2] "Instead of depending upon self-interest as a spur to industrial activity, socialism relies upon the love of activity for its own sake, the desire to contribute to the common good, the sense of duty in the performance of tasks that are largely voluntary, and the ambition to win social esteem and social distinction through conspicuous social service."[3] Such a mental attitude should produce a high type of individual character and make possible a large degree of individual freedom.

425. Actual success of the state in business. Finally, socialists point to the successful working of the state in those fields where it has already abolished competition and introduced the coöperative principle under government control.[4] Government management of the postal service and of coinage is universal; in some states railroads, telegraphs, mines, and other industries of large public importance are satisfactorily operated by the state; municipal governments have in many cases taken over the ownership of public utilities.[5] It is argued that the success of these experiments justifies the doctrines of socialism, and that by such methods alone can the advantages already secured under political democracy be widened to include also the economic life of the people.[6]

[1] Ely, Socialism and Social Reform, Part II, chap. ii.

[2] Ely, op. cit., Part II, chap. iv; Medley, Socialism as a Moral Movement.

[3] Seager, Introduction to Economics, p. 525.

[4] Seligman, Principles of Economics, chap. xxxiii; Ely, Problems of To-day, chaps. xvii–xxi; Outlines of Economics, chaps. xxvi, xxix.

[5] Foote, Municipal Public Service Industries; Pond, "Municipal Control of Public Utilities," in Columbia University Studies in History, Economics, and Public Law, Vol. XXV; Ely, Evolution of Industrial Society, pp. 225–254.

[6] Howe, The City, the Hope of Democracy.

426. Objections to socialism. However, the principles of socialism rest upon several fallacious or one-sided premises and meet numerous practical difficulties in any attempt at actual application.[1] Socialists ascribe an undue share of production to labor alone,[2] not recognizing the important contribution of capital to production and the necessity and justice of paying interest as well as wages.[3] Their doctrine of class struggle[4] fails to consider sufficiently the important middle class, which does not sympathize exclusively with either capital or labor, and which is perhaps numerous enough to hold the balance of power. Socialists also overemphasize the economic interpretation of history,[5] and fail to give proper weight to intellectual and spiritual forces in human evolution.[6] In particular, socialists overestimate the capacity and efficiency of the state. The success of governmental regulation of monopoly or of governmental operation of types of business that affect directly the public interest does not in itself argue for public control of all industry. It is quite probable that some forms of production are better left to private management. By overburdening the state with a multiplicity of duties socialism might seriously impair the efficiency of government.[7]

427. Socialism unfavorable to progress. It is also asserted that socialism is unfavorable to progress. If the incentive of competition and the hope of reward were removed, experiments and improvements would be retarded, individual initiative would be checked, and, in attempting to remove inequalities, there would

[1] For criticisms of socialism, see Block, Le Socialisme moderne; Bramwell, Economics *versus* Socialism; Guyot, Tyranny of Socialism; Hill, Principles and Fallacies of Socialism; Schäffle, Impossibilities of Social Democracy.

[2] Boudin, Theoretical System of Karl Marx; Spargo and Arner, Elements of Socialism, chaps. xii–xiii.

[3] Böhm-Bawerk, Capital and Interest, Bk. VI, trans. by W. Smart.

[4] London, War of the Classes; Kautsky, Class Struggle; Simons, Class Struggle in America; Spargo and Arner, op. cit., chap. xi.

[5] Marx, Contribution to the Critique of Political Economy, Preface; Hillquit, Socialism in Theory and Practice, chaps. iii–iv; Spargo and Arner, op. cit., chap. ix; Rogers, Economic Interpretation of History.

[6] Seligman, Economic Interpretation of History; Hinsdale, How to Study and Teach History, chap. xi; Ward, Applied Sociology; Psychic Factors of Civilization.

[7] Robertson, "Impracticability of Socialism," in Mackay (editor), A Plea for Liberty; McKechnie, The State and the Individual, chap. xiii.

be danger of reducing life to the dull uniformity of stagnation.[1] Socialism, therefore, would involve, not an enlargement of freedom, but virtual slavery, with a corresponding deterioration of individual character.[2] As in the sphere of religion in the past, so in the sphere of economic life in the future, the principle of compulsory coöperation may be found incompatible with human progress.

428. Psychological obstacles to socialism. Socialists, indeed, are inclined to be too optimistic in underrating the psychological obstacles to their plan.[3] The average man is neither so inclined to work nor so zealous for common welfare as socialism demands. Neither is the sense of duty sufficiently developed, nor public opinion, on which social esteem must depend, sufficiently discriminating to obviate the necessity of compulsion. When mankind is morally perfected to the point that socialism demands, it will make little difference what form of organization is adopted. In other respects, socialists are too pessimistic with respect to the present.[4] They overemphasize starvation and misery at one extreme and luxury and extravagance at the other, but they neglect the gradually rising standards of living, the increased production of necessities and of comforts, the premium on energy and thrift, and the opportunities open to those of ability and initiative. Socialists attempt to foresee the course of social evolution too far in advance; many of the predictions made by Marx and his followers have not been realized;[5] it is not impossible to eliminate many of the evils of to-day without departing from our fundamental institutions.[6]

429. Difficulties in administration. Besides, the difficulties of administration in a socialistic state would be enormous. Such questions as the apportionment of laborers among the various departments of industry, the assignment of values to products and to

[1] Mallock, Social Equality.

[2] Spencer, The Coming Slavery; Ely, Socialism and Social Reform, Part III, chap. v.

[3] Le Bon, Psychology of Socialism.

[4] Ely, op. cit., Part III, chap. iii.

[5] For example, neither the concentration of land into the hands of a few owners, nor the increasing pressure of population upon food supply, both of which formed basic principles of the Marxian theory, has materialized. Economic changes that could not be foreseen prevented these developments. See Weyl, The New Democracy, chap. xii.

[6] Ely, op. cit., Part IV.

labor, the quantity of goods to be produced, the relative proportion of capital goods and consumers' goods, and the distribution of income — all of which are now regulated, imperfectly to be sure, by economic laws — are complex problems whose artificial adjustment would require administrative ability of the highest order. Serious dangers would also arise because of the opportunities for corruption, intrigue, and personal spite. Against the power of unjust officials in a socialistic state there would be little possibility of resistance and little chance of fair play. The connection at present between business and politics is the source of many evils in government;[1] strengthening that connection until they become practically identical would, under present moral conditions, scarcely tend toward improvement.[2]

IV. Conclusions

430. Modern theory a compromise. Neither individualism nor socialism represents the best modern view of the sphere of the state.[3] Neither is it possible to draw a hard and fast line between proper and improper governmental activities. "In the first place, as nothing that affects the part can be indifferent to the whole, the state is bound by its laws and government to aim jointly with the citizens at the perfect development of every individual in the community. Nothing is beyond the proper sphere of government in pursuing this high end. In the second place, while nothing is suffered to remain outside the state, fit provision must be made for every individual enjoying a full free life within it."[4]

The presence of certain characteristics in a given function is favorable to state activity. Among these may be mentioned the

[1] Weyl, op. cit., chaps. viii–x; Brooks, Corruption in American Politics and Life.

[2] Attempts to answer the objections to socialism may be found in Spargo and Arner, Elements of Socialism, chap. xxv; Vail, Principles of Scientific Socialism, chap. xiii; Kelly, Twentieth Century Socialism, Bk. I, chap. iii.

[3] For good brief statements, from different points of view, of the modern theory of state function, see Garner, Introduction to Political Science, pp. 320–329; Montague, Limits of Individual Liberty; Willoughby, Nature of the State, pp. 337–343, 345–350; Ritchie, Principles of State Interference; McKechnie, The State and the Individual, chaps. xviii–xxii; Stephen, Liberty, Equality, Fraternity.

[4] McKechnie, op. cit., pp. 266–267.

inadequacy or harmfulness of other agencies that would act if the state did not, the applicability to the function in question of simple and uniform methods, and the likelihood that the action of the state in the given case will be subjected to the constant and careful scrutiny of public opinion.[1] As the conditions and needs of society change, the work that men in their corporate capacity should do, both in the way of restraining individual action and in promoting individual welfare, changes also. "Every political theory contains the seeds of its own destruction, because it must be to some extent inaccurate, and the more thoroughly it is put into practice the more fully its defects appear. The result is that when a principle seems to be generally accepted, when it has become acknowledged as the spirit of the age, the time of its overthrow is usually close at hand."[2]

431. Utilitarian basis of modern theory. The theory of the proper scope of state activities depends upon the conception of the proper ends or purposes of the state;[3] the determination of just what powers shall be assumed by a particular state at a given time is a question of expediency. "In each instance the circumstances of the case must determine whether or not the advantages to be derived from the public control are more than offset by the weakening of the self-reliance of the people, by the encroaching upon their personal freedom, by the opening of the way to corrupt influences in government, or by the creating of precedents for the assumption of activities by the state that will be detrimental to the general interests. This is practically the rule followed by all modern civilized states."[4] Almost every one agrees that the state should do more than merely maintain peace, order, and security among its members. This primitive state function widens in an advanced political civilization into the duty of the state to contribute to national well-being and progress.[5] "Matters connected with the maintenance of domestic tranquillity and defense from foreign aggression or wrong enter but slightly into our general thought. Our legislatures are mainly concerned with economic matters, such as the levying of

[1] Jevons, Methods of Social Reform, p. 355.
[2] Lowell, Government of England, Vol. II, p. 521.
[3] See below, Chapter XII.
[4] Willoughby, Nature of the State, p. 338.
[5] Leroy-Beaulieu, The Modern State, chap. v.

proper import duties, with the control of trusts, with problems connected with railroads, with interstate commerce, with the assessment of taxes, with the provision of circulating currency, and the maintenance of sufficient banking facilities." [1]

432. Present tendency toward expanding governmental powers. While the general presumption is against state interference, individual freedom of action being considered the rule and state intervention the exception, at the same time the present tendency of states is to push their activities farther into domains formerly left to individual initiative.[2] "Three powerful forces are now at work pressing for an increase in the functions of government. First in order of historical importance is paternalism, or the effort of the upper classes, through sympathy or fear, to advance the interests and security of the working class. . . . This form of state interference, which originated in the quasi-paternal relationship of feudal lord and dependents, and in the desire of benevolent despots like Frederick the Great to increase the arms-bearing and tax-paying population, is less popular among the more purely individualistic industrial nations where the cash nexus has more fully supplanted the personal relation. A second group of advocates of increased government activity is fundamentally individualistic in the old sense of the word, insomuch as its members seek to use the arm of the law to destroy, or closely restrict, large corporations in order to encourage the diffusion of real property and the intensification of competition. Thus we have the paradox of extreme individualists calling on the government to interfere in economic matters to a certain degree for the purpose of forestalling the possibility of a future intervention on a larger scale. . . . A third force working for

[1] Willoughby, op. cit., p. 343. The interest of government in economic and social issues, rather than in what are more purely political issues, is characteristic of present conditions. Mankind, having worked out a fairly satisfactory form of political organization, is using that organization in attempting to solve the more pressing social and economic difficulties. By assuming this burden a corresponding strain is put upon the political organization; and political forms, previously satisfactory, may show weaknesses under the added duties. See Leacock, "Limitations of Federal Government," in Proceedings of the American Political Science Association, Vol. V, pp. 37–52.

[2] For certain limitations placed on state action by the very nature of political authority, see Bluntschli, Theory of the State, pp. 324–326; Bosanquet, Philosophical Theory of the State, chap. viii.

state interference is the constant increase in the huge industrial army that inevitably accompanies the advance of mechanical revolution in production and distribution. The medieval system in which each worker owned and controlled his simple implements and conducted his business in his own fashion has disappeared forever and in place of it has come a divorce of the laborer from his tools — the ownership and management of which have passed largely into the hands of a relatively small proportion of the population. . . .

"As the doctrines of divine right formerly had no permanent validity for the rising middle class, so the doctrines of individual liberty — trial and indictment by jury and due process of law — do not have the same reality to the workingman that they have to members of the possessing group. Freedom of contract between an employer and an employee with a few days' supplies behind him obviously cannot have the same meaning that it has between persons similarly situated as far as economic goods are concerned. To discourse on the liberty afforded by jury trial to a man who has never appeared in a court but often suffers from considerable periods of unemployment is to overlook the patent fact that liberty has economic as well as legal elements. Quite naturally this new industrial democracy is evolving a political philosophy of its own, confused and inarticulate in divers ways, but containing many positive elements ranging from minor modifications of the labor contract to the socialist doctrine that the passive ownership of property is merely a special privilege to be eliminated by the use of the government as the collective instrument for the administration of all important forms of concrete capital. . . .

"As a result of all these forces and the growing complexity of our civilization, along with the increasing possibilities of effective collective action, the burdens of our governments tend to multiply, and the stress once laid on individual liberty in the juristic sense is being diminished. For example, all the numerous constitutions of France from 1791 to 1875 laid great emphasis on the rights of man, but the last and most enduring omits practically all references to the primordial principles. The imperial constitution of Germany has no section on private rights; the new constitution of the

Australian commonwealth leaves individual liberty without a clause while empowering the government to establish old age and invalid pensions, provide for industrial conciliation, and acquire railways and other forms of property. Moreover, our own Congress, in obedience to these new economic forces, seems willing to stretch to its utmost its powers of regulating industrial operations and protecting the working-class; and in its extension of the notions of the police power, the Supreme Court reveals the existence of this new pressure in our political jurisprudence." [1]

433. Influences favorable to individualism. It may be noted, however, that, in addition to the forces that tend to encourage and increase state activity, there are others that will probably render less necessary a resort to governmental control. Factors developing the individuality of man exist side by side with those increasing his social nature. "With increasing civilization will come higher morality, broadened altruism, and widened intellectual horizon. These are the forces which may be depended upon for the correction of imperfect conditions as they arise, without the intervention of the state. The more enlightened a people become, morally and intellectually, the more inclined and more able will they be to depend upon their own individual and voluntary powers for the regulation of their own affairs, and the less likely they will be to tolerate a régime in which a broad field of freedom of individual action is not secured. Their intellectual advancement will enable them to discover the means, in very many cases, whereby to correct abuses, without calling in the assistance of the state, and increased morality will render possible the practical operation of these means." [2]

434. General expansion of human activities. That the functions of the state are expanding out of proportion to the growth in extent and complexity of social activities in general should not be arbitrarily assumed. "In our day there is a tendency toward extension of state functions which after all is perhaps no more than symmetrical in view of the general expansion of larger structures in every sphere. It does not seem to outstrip the growth, for instance,

[1] Beard, Politics, pp. 26–29.

[2] Willoughby, Nature of the State, p. 350.

of private corporations, or labor unions, or of individual wealth. It is easy to see a tendency to state socialism if you look only at the new functions of the state; easy to see an opposite tendency if you fix your attention on private organization. Whether or not the state is *relatively* increasing its sphere is not easy to decide. The new conditions of life bring men closer together, creating a general need of wider organization; and, so far as now appears, this need is to be met by the simultaneous development of various structures already well begun; such as popular government and education, private industrial and commercial corporations, labor unions, mutual-aid societies, philanthropical associations, and so on." [1]

[1] Cooley, Social Organization, p. 410.

CHAPTER X

RELATIONS AMONG STATES

I. Nature and Development of International Relations

435. Early beginnings of international relations. While international relations, in the modern sense of the term, and the problems to which they give rise could not exist until the present community of sovereign and independent states was formed at the close of the medieval period, yet relations of some sort were maintained even among the earliest political communities.[1] Relations among primitive states were largely controlled by force. Disputes were settled or advantages secured by appeal to arms, and the right of the stronger to the person and property of the conquered was generally recognized. War was the natural condition of mankind; peace was an artificial state secured by special agreement. Foreigners, having no share in the common worship of the primitive groups and lacking the tie of real or fictitious kinship, were usually regarded as enemies, without legal rights or obligations.[2] Early political units possessed little sense of intertribal or intercommunity obligations. War was, of course, not perpetual among all peoples. Mutual aid and peaceful intercourse sometimes took place even among the most backward races;[3] and certain states, such as Egypt, China, and India, were peaceful agricultural and industrial empires except when their populations were driven to warfare by great conquerors.

436. International relations in the Orient. More than a thousand years before the Christian era, Egypt was carrying on friendly relations with Assyria and the Hittites by exchanging letters, presents, and embassies, by forming marriage alliances, and even by

[1] For an excellent summary of international relations in ancient and medieval times, see Hershey, Essentials of International Public Law, chap. iii.

[2] Frisch, Das Fremdenrecht.

[3] Kropotkin, Mutual Aid, a Factor of Evolution, chap. iii.

negotiating treaties.[1] At the same time the Egyptians were cruel in warfare and barbarously abused their enslaved captives. The Assyrians, Babylonians, and Persians, more warlike than the Egyptians, were more arrogant and brutal in their conquests. Whole populations were put to death, enslaved, or transported, and mutilation and torture were freely practiced.[2] The Persians, however, also used bribery in dealing with other peoples, and treated foreign visitors with hospitality. The ancient Hebrews, although they waged a war of extermination against the inhabitants of Palestine,[3] gave to the world the ideal of universal peace in the vision of Isaiah. "And they shall beat their swords into ploughshares, and their spears into pruninghooks; nation shall not lift up sword against nation, neither shall they learn war any more."[4] The Phœnicians and Carthaginians, the first commercial peoples in history, founded colonies by violence, and engaged in trade as a species of piracy and brigandage. The hope of plunder was a guiding motive in their foreign policy and the most extreme measures were used to secure a monopoly of trade in the Mediterranean.[5]

437. International relations among the Greeks. Conditions in the Hellenic world, with its numerous independent city states, were more favorable to the growth of interpolitical relations, although love of city autonomy was stronger than national feeling among the Greeks, and no definite intermunicipal law was developed. The Greek cities were, however, bound together by ties of race, language, religion, common customs and interests, and their organized relations included religious leagues,[6] confederacies,[7] attempts to maintain the balance of power,[8] and acknowledgment of the political headship of a single city.[9] While warfare among the

[1] Brugsch, Egypt under the Pharaohs, Vol. II, pp. 171–176.

[2] Maspero, Struggle of the Nations, pp. 634 ff.

[3] Exodus xxxiv, 10–16.

[4] Isaiah ii, 4.

[5] Cunningham, Western Civilization: Ancient Times, Bk. I, chap. iii.

[6] On the part played by religion in the intermunicipal relations of early cities, see De Coulanges, The Ancient City, pp. 273–280.

[7] Freeman, History of Federal Government in Greece and Italy, chaps. iv–ix.

[8] Phillipson, International Law and Custom of Ancient Greece and Rome, Vol. II, pp. 101 ff.

[9] Sparta, Athens, Thebes, and Macedon each held the position of leader, or *hegemon*, in Greece.

Greeks, as among other early peoples, was marked by great cruelty, certain customs, such as the inviolability of heralds, the right of asylum, and the sacred obligation of peace during the national religious festivals, were recognized.[1] In the field of maritime law, the commercial cities of Greece made some progress and developed codes to regulate peaceful and legitimate commerce.

438. Contributions of Rome to international development. Rome, from its foundation, was engaged in relations with neighboring cities. Its career of expansion was begun when it became the head of the Latin League, and it united Italy into a powerful confederacy of Latin allies under Roman headship by diplomacy and intrigue as well as by force. Later, international conquests, extending over all the Mediterranean world, created the empire. Under these conditions Rome developed the idea of a common superior to whom all nations and all peoples owed allegiance. In their treatment of foreigners, their rules of warfare, and their procedure in peaceful negotiations, the Romans, like the Greeks, observed religious rules and ceremonies.[2] In the *jus gentium* were gathered together the principles and customs common to all the peoples over whom Rome administered justice.[3] This body of rules became later an important factor in the growth of international law.

439. International relations in the Middle Ages. During the Dark Ages, following the fall of Rome and the invasions of the Teutons, relations among the barbarian chieftains were those of unregulated warfare; and international traditions practically disappeared in western Europe. In the Eastern Empire and among the Saracens, international practices survived.[4] Even after the semipolitical system of feudalism had arisen, the relations among the feudal groups were of the loosest kind. Private warfare was common,[5] violence prevailed, travel was unsafe, and for a time trade and commerce almost disappeared. The influence of the

[1] On the Olympic Games, see Gardner, New Chapters in Greek History, pp. 273–302.

[2] On the *jus fetiale*, the religious rules for declaring war and ratifying peace, see Hill, History of Diplomacy, Vol. I, pp. 8–11.

[3] Maine, Ancient Law, chap. iii.

[4] Walker, History of the Law of Nations, pp. 57 ff.

[5] On feudal warfare, see Munro and Sellery, Medieval Civilization, pp. 177–187.

Roman Catholic church and the authority of the Frankish emperors, however, were exerted to establish peace and to restore the idea of world unity, and for a time the pope was powerful enough to act as the international arbiter of Europe.[1] Feudalism also emphasized the doctrine of sovereignty as based on land in distinction from the personal sovereignty of earlier times.

440. International relations at the close of the Middle Ages. The most important single influence upon international relations during the Middle Ages was the Crusades.[2] These brought together diverse peoples in a common undertaking, awakened Europe to a new civilization, weakened the feudal overlords, enfranchised towns, freed the third estate, made possible a feeling of unity throughout Christian Europe, and laid a broader basis in comity for later interstate relations. The Crusades gave especially an impetus to trade and maritime commerce, which emphasized the rights and duties of nations. The Italian cities, in spite of war and piracy, developed an extensive sea trade with the Orient and both a sea and an overland trade with the remainder of Europe.[3] A secondary center of trade was formed by the German cities united in confederations for mutual defense.[4] To regulate this extensive commerce, codes of maritime law were created,[5] and consuls were maintained to look after the interests of merchants and sailors in the Oriental trading posts.[6]

441. Beginnings of international relations proper. Interstate relations proper, however, could not arise as long as Europe was split up into feudal fragments, with their overlapping jurisdictions and their confused and rival sources of internal authority. Neither were international relations possible as long as men believed in the theory of a united Christendom under universal rule, claimed by both pope and emperor. The mighty forces set in motion by the

[1] For example, the Bull of Pope Alexander VI in 1493 fixed a boundary line between the colonial possessions of Spain and Portugal. See Hart, American History told by Contemporaries, Vol. IV, pp. 40–43.

[2] On the results of the Crusades, see Adams, Civilization during the Middle Ages, chap. xi; Milman, History of Latin Christianity, Vol. IV, Bk. VII, chap. vi.

[3] Day, History of Commerce, chaps. ix–xi.

[4] Ibid. chap. xii.

[5] Davis, Elements of International Law, pp. 8–10.

[6] Halleck, International Law (Baker's ed.), Vol. I, pp. 369–370.

Renaissance and Reformation completed the destruction of feudalism, separated political from religious authority, and destroyed the idea of a common superior in Europe.[1] After a long series of politico-religious wars, the treaty of Westphalia (1648)[2] revealed the modern system of a community of states based on the idea of absolute territorial sovereignty and legal equality, and with an equilibrium of forces among them.

442. Rise of the international community. These states, represented by their monarchs with whose person the idea of sovereignty was associated, declared war, made alliances and treaties, sent and received embassies, gained or lost territory, and developed intricate and important international relations. The king was the head of the state, its territory and property were vested in him, and his marriages, his personal enmities, or his judgment as to political expediency determined its interstate relations.[3] With the establishment of constitutional checks upon the powers of the monarch and the evolution of representative institutions, the sovereignty of the monarch was transformed into the sovereignty of the state, and international relations assumed their modern aspect.

443. Classification of international relations. An analysis of the modern relations between state and state shows the following main elements. Interstate activities may be carried on either by private citizens or by the authorized public agents or governments of states. In the former case, the interest of the state is indirect and it may or may not regulate the actions or safeguard the interests of its citizens in their extraterritorial relations. A state may demand passports from aliens traveling or residing in its territory.[4] It may protect the lives and property of its citizens, especially in the less civilized parts of the earth.[5] It may even make political capital of the work of its missionaries or investors, and establish spheres of influence which are later transformed into political dependencies.[6]

[1] On the influence of the Reformation on political theory, see Dunning, Political Theories; From Luther to Montesquieu, chaps. i–iv.

[2] Bernard, Four Lectures on Diplomacy, No. II.

[3] Amos, Science of Law, p. 336.

[4] Moore, International Law Digest, Vol. III, chap. xii.

[5] On consular and international courts, see Lawrence, Principles of International Law, pp. 254–258.

[6] Reinsch, Colonial Government, Part I.

The foreign commercial activities of its individuals and corporations are of especial interest to the state. Because of their influence on the national wealth and prosperity, and because they frequently lead to colonization and war, states have, from earliest times, by restrictions on foreigners, by granting monopolies, by subsidies and tariffs, exercised some authority over the movement of international trade.[1] In some cases, as in medieval Venice and in sixteenth-century Spain and Portugal, foreign commerce was carried on practically as a part of the work of government;[2] modern states charter commercial corporations and actively regulate international trade by means of customs duties; a large proportion of existing treaties are concerned with commercial problems.

444. International private law. In general, however, the actions of private individuals, as long as they keep within the law of the land concerned, are little interfered with in the more advanced modern states and are seldom considered as having international significance.[3] Science, art, literature, and civilization in general are diffused over the world, regardless of political boundaries, and financial and commercial interests are world-wide in scope. In case of dispute between two conflicting systems of law in the decision of cases affecting private persons and relating to private interests, for example, questions concerning the limits of national jurisdiction, validity of foreign marriages, wills and contracts, and questions of residence, domicile, and nationality, a body of principles called *international private law* or *conflict of laws* has been developed.[4] This body of rules depends upon a feeling of comity among states and is a part of the municipal law in each state. "It derives its force from the sovereignty of the states administering it; it affects only the relations of individuals as such; and it consists in the rules by which courts determine within what national jurisdiction a case equitably falls, or by what national force it is just that it shall be decided."[5]

[1] Farrer, The State in its Relation to Trade; Hobson, International Trade.

[2] Day, History of Commerce, chaps. xi, xix.

[3] On individuals as objects of international law, see Hershey, Essentials of International Public Law, chap. xvi.

[4] Minor, Conflict of Laws; Wharton, Conflict of Laws, Preface.

[5] Hall, Treatise on International Law, p. 51.

445. Nature of relations among states. The greater number of international problems have resulted from direct relations among states, carried on by means of their respective governments or authorized public agents. These relations have been either warlike or peaceful. The former include the long series of conflicts,[1] military and naval, that have been such potent factors in the origin and development of the state, and in determining its form and organization. The latter include the development of the principles of international law, the formation of a consular and diplomatic service, the negotiation of treaties, the holding of conferences, and the establishment of commissions or courts for the regulation of international interests or the settlement of international disputes. While warfare, as the final means of solving international difficulties, is by no means obsolete, it has at least ceased to be the normal condition among states; and state evolution has been marked by the gradual strengthening of peaceful international relations, looking toward the substitution of the same legal means of settling interstate problems that has been so satisfactorily worked out in adjusting the relations of individuals within the state. As a result of both warlike and peaceful international relations, various forms of union among states, falling short of the establishment of new states, have been formed. The nature and problems of these international alliances, leagues, and confederations also falls within the scope of this study.

II. International Commercial Relations

446. Commerce in the ancient world. The essentials for extensive commercial relations were lacking in ancient states. Absence of facilities for transportation and communication limited trade to objects of great value and small bulk. Insecurity of person and property compelled commerce to be carried on by armed caravans or convoys, so that war and conquest often followed. Trade in ancient times frequently partook of the nature of plunder and piracy, and consisted largely in dealings between civilized peoples

[1] From B.C. 1496 to A.D. 1861, a total of 3357 years, there were 227 years of peace and 3130 years of war. Bloch, Future of War, p. lxv.

and barbarous peoples, the latter distrusting and fearing the former. Commerce within the state was carried on chiefly by non-residents, who were protected by the ancient right of hospitality from the characteristic dislike of strangers in the ancient world.[1] Land trade between Egypt and the Eastern civilizations was carried on across the deserts by the caravans of the Arabs. Both land and sea trade were developed by the Phœnicians, whose industrial and commercial centers, Tyre and Sidon, extended their activities over the Mediterranean, Black, and Red seas, as well as along the coasts of the Atlantic and Indian oceans.[2] Trade in the early Hellenic world was largely controlled by the Phœnicians; but with the establishment of colonies on the neighboring islands and shores, the Greeks became more actively engaged in commerce. Greece had the same advantage over Phœnicia that England had over Holland in the seventeenth century — she was nearer to the new lands and safer from the old.[3] Various cities, at different times, held political dominance over Greek trade. Rome, while establishing security throughout the Mediterranean by suppressing piracy, and maintaining peace upon the land by means of her military system and roads, was passive in trade, her commerce being largely in the hands of the Greeks.[4]

447. Commerce in the Middle Ages. During the Dark Ages, between the fall of Rome and the Crusades, commerce was in a chaotic state, such trade as survived the barbarian invasions centering in the Eastern Empire and later in the Mohammedan world.[5] Overland trade was hindered by robbery and by the burdensome tolls levied by the feudal lords; sea trade was hindered by piracy and by the backwardness of the art of navigation.[6] The Crusades gave an enormous impetus to industry and trade, directly by their demands for transportation and equipment, and indirectly by increasing the demands for Eastern commodities. As a result, old

[1] Bücher, Industrial Evolution, p. 62.

[2] Cunningham, Western Civilization: Ancient Times, pp. 54–70.

[3] Perris, War and Peace, p. 48.

[4] On Greek and Roman commerce, see Day, History of Commerce, chaps. iii–iv; Cunningham, op. cit., pp. 71–195.

[5] Gibbins, History of Commerce in Europe, pp. 27–33; Cunningham, op. cit., pp. 196–209; Munro, History of the Middle Ages, chaps. ix–x.

[6] Robinson, History of Western Europe, pp. 246–248.

commercial centers revived and new cities sprang up in western Europe. The Italian cities, especially Venice, advantageously located on the new trade routes, became the leaders in European trade. In northern Europe, Flanders became the industrial center; and the Hanseatic League, with its capital at Lübeck, soon numbered almost one hundred cities and added to its protection of commerce important political functions. With its fleet and army and its trading factories in various countries, it dominated the commercial and industrial life of north Europe as Venice did that of the south.[1]

448. Organization of medieval commerce. No national commercial policy was developed in ancient or medieval times, trade being organized on a municipal basis; although some of the medieval city leagues were quasi-national in character.[2] In the medieval cities minute regulations were laid down to control all phases of commerce, and every effort was made to limit trade to native citizens. In foreign cities trading quarters were secured by special concessions, within which the home merchants carried on their business and administered their own law through officers called *consuls*, chosen sometimes by themselves, sometimes by the home government. Fairs, to which merchants from various countries brought their wares, also demanded regulation at the hands of the lord on whose territory they were held, and tended to break down the restrictive commercial policy of the cities.[3] In the Middle Ages, commerce was looked upon rather as a privilege which the governments granted to their citizens than as an economic right. Regulation of trade was used as a political weapon, and for a long time, even after the rise of modern states, the ports of a kingdom were the "king's gates," which he could open or close at his pleasure.

449. Growth of commerce at close of Middle Ages. Toward the close of the Middle Ages, improvements in the art of navigation, the closing of the Oriental trade routes by the Turks, the finding

[1] On medieval commerce, see Gibbins, op. cit., pp. 34–67; Day, op. cit., pp. 70–112; Cheyney, European Background of American History (American Nation, Vol. I), chaps. i–ii.

[2] Fisk, International Commercial Policies, pp. 14–18.

[3] Day, op. cit., chap. viii.

of a sea route to the Indies, and the discovery of America shifted the commercial centers of Europe from the Mediterranean to the Atlantic coast, and enormously stimulated over-sea trade.[1] With the growth of commerce a final blow was struck at feudalism, already weakened by the Crusades and the forces of the Renaissance. Wealth drawn from trade created a powerful merchant class in the cities as rivals to the landed nobility. Growing wealth gave to the kings a source of increasing revenue with which standing national armies could be maintained. The invention of gunpowder was also turned to the king's use and destroyed the military supremacy of the medieval armed horseman. As a result the modern national states, governed by strong kings, jealous of one another's strength, arose.[2] Spain and Portugal, and later Holland, France, and England, became the leading commercial powers; the independence of the cities was subordinated to the authority of centralized monarchies, with whose military, naval, and financial strength they could no longer compete; and commerce was carried on and regulated along national rather than municipal lines.[3]

450. The mercantile system. To the principles that were applied by states in their attempts to regulate international trade for national aggrandizement during the sixteenth, seventeenth, and eighteenth centuries, the name *mercantilism* is given. Among its prominent characteristics was the overestimation of the importance of money as the most valuable form of national wealth. After the Crusades precious metals were drained off to the East in payment for Oriental commodities, and the growing need for money to pay for standing armies, government officials, and expensive courts led the national monarchies to make every effort to retain gold and silver within their boundaries. Since no European states possessed extensive mines of these metals, and since the American mines were monopolized by Spain, foreign commerce was the only means of bringing money into the state. Foreign trade was therefore considered of more value than domestic industry. Specie exportation was prohibited, the coinage was debased,

[1] Cambridge Modern History, Vol. I, chap. i.
[2] Day, History of Commerce, pp. 123–127, 161–166.
[3] Fisk, International Commercial Policies, chap. ii.

and minute regulations attempted to direct the course of exchange for the purpose of preventing precious metals from going to foreigners. When these restrictions were found too burdensome, the theory developed, in England especially, that the welfare of the state depended upon maintaining a "favorable balance of trade." States, therefore, attempted to regulate commercial development so that the value of exports always exceeded the value of imports, leaving a balance payable in money due to the home state. The most noteworthy attempts to legislate along these lines were the English Navigation Acts.[1] Foreign and domestic trade were limited to native ships and sailors. Domestic manufactures were encouraged, as was the importation of raw materials; and the exportation of finished products was facilitated in every way. The proportionately large value of manufactured commodities was expected to yield a favorable balance of trade, while their production would give employment to labor, increase the population, and thus strengthen the state in its rivalry with other states. Shipping and the fisheries, as feeders of the national navy, were regarded with special favor.[2]

451. Results of the mercantile system. While the mercantile system failed in accomplishing its intended purpose, since all states were applying the same principles, and economic laws were more powerful than political legislation, the indirect results of this theory of commercial regulation were important. It checked the exchange of commodities among states, each aiming to be self-supporting, and furnished a natural basis for the system of national protective tariffs, which still survive. It also influenced the political grouping of states during the frequent wars of the period. England, for example, was the ally of Portugal, because Portugal bought English manufactures and sold in return wine and other commodities not produced in England; while the traditional hatred of France was kept alive in England because the trade with that country showed regularly an unfavorable balance of trade. The view that the advantages of trade were one-sided and benefited

[1] MacDonald, Select Charters, Nos. 22, 23, 25, 28, 34, 43, 50, 56.

[2] On mercantilism, see Schmoller, The Mercantile System. For a good brief criticism of mercantilism, see Fisk, op. cit., pp. 27–29.

those states that sold more than they bought, led states to strive to exercise political authority over large areas in order to control their trade. This resulted in a policy of colonial exploitation. The opening up of the New World was chiefly due to the eager search for precious metals and to the work of chartered commercial companies.[1] States that established colonies considered it their duty to see that other states did not rob them of the benefits of colonial trade, and expected their colonies to enrich the home land, especially as producers of raw materials and as purchasers of finished products. Colonists were expected to remain patriotic citizens of their native state; and in a period of bitter warfare among states it was considered the plain duty of colonists to contribute by their commerce, one of the mainstays of military and naval power, to the resources on which the strength of the nation depended.[2]

452. The *laissez-faire* theory. The mercantile theory was a natural reaction against the decentralization of the Middle Ages, and represented the strenuous nationalism of the rising modern states. It was soon found, however, that its complicated regulations retarded industrial and commercial growth; and, during the eighteenth century, a new school of political and economic thinking arose.[3] The political side of this movement, represented by the writings of Locke in England, Rousseau in France, and Jefferson in America, emphasized individualism and natural rights, and underlay the French and the American revolutions. The economic reaction, which was based on the doctrine of *laissez faire*,[4] was represented by the Physiocrats in France and the free-trade movement in England. The Physiocrats emphasized the superiority of agriculture over industry and commerce in producing national wealth; and, believing it useless to devise regulations that interfered with the natural order of growth, taught the doctrine that things should be let alone (*laissez faire*).[5] In England the

[1] Cheyney, European Background of American History (American Nation, Vol. I), chaps. vii–viii.

[2] On mercantile colonial policy, see Seeley, Expansion of England, Lectures IV, VI. For a criticism of the old colonial system, see Adam Smith, Wealth of Nations, Bk. IV, chap. vii, Part 2. [3] Fisk, International Commercial Policies, chap. iii.

[4] Ingram, History of Political Economy, chap. v.

[5] On the Physiocrats, see Higgs, The Physiocrats; "Physiocrats," in Palgrave, Dictionary of Political Economy.

epoch-making "Wealth of Nations" of Adam Smith, which appeared in 1776, taught that free trade, which enabled each state to buy in the lowest and sell in the highest market, and to produce those things that it could produce at least cost, was a necessary condition for economic development. It also taught that trade might be mutually advantageous to both states, and that free competition, based on the interests of individuals, would result also in social gain.

453. Tendencies toward free trade. The supremacy of England as a manufacturing state, made possible by her Industrial Revolution[1] during the period when the peoples of the continental states were withdrawn from industry by the Napoleonic wars and when the Americans, as the chief neutrals, found the carrying trade more profitable than manufacturing,[2] caused England to look with favor on the doctrine of free trade as a means of opening to her manufactures the markets of the world and allowing her to buy cheap food for her laboring population. As a result, the Navigation Laws were repealed, duties on the import of food stuffs were removed,[3] and the principle of low tariffs for revenue only was established. In the United States the competition of English manufactures, after the War of 1812, compelled for a time a high tariff to protect the newly established industries to which American capital had turned when the carrying trade was ruined;[4] but during the middle of the century (1833–1860), when the southern agricultural classes controlled the government, the United States followed England in removing her high protective duties.[5] On the continent also, while the financial burdens of the Napoleonic wars and the ruinous competition with England's manufactures were followed by a period of high tariffs for both revenue and protection, the European states were soon attracted by the doctrines of the free traders and by the demands of their agricultural classes for free markets; and between 1860 and 1870 a number of treaties providing for a marked lowering of customs duties were negotiated.[6]

[1] Cheyney, Industrial and Social History of England, chap. viii.
[2] Bogart, Economic History of the United States, chap. viii.
[3] On the Corn Laws, see Nicholson, History of English Corn Laws.
[4] Taussig, Tariff History of the United States, pp. 1–108.
[5] Ibid. pp. 109–154.
[6] Morley, Life of Cobden.

454. Reaction toward protective tariffs. While many persons believed that an era of world-wide free trade was at hand, a decided reaction in favor of higher tariffs was soon evident.[1] This growth of protection during the past half century may be explained on several grounds. In contrast to the earlier *laissez-faire* theory, which regarded the state as a necessary evil, properly limited in its scope to the protection of life and property, modern theory, influenced largely by the "historical school"[2] of German thinkers, considers the state as an organ for the promotion of general welfare, properly engaged in any activity that furthers the interests of its citizens. Besides, the great wars of this period, especially the American Civil War and the Franco-Prussian War, were extremely costly; and the need for increased revenues was partially met by placing tariffs on articles imported from foreign states.[3] Finally, the rapid recent growth of foreign trade has led to renewed international competition. Western Europe and the United States, in selling their manufactured goods all over the world, compel states with undeveloped industries to protect themselves by high import duties; the agricultural classes of western Europe also show resentment against the influx of food products from countries, such as Russia, the United States, and Argentina, with whose agricultural resources they cannot successfully compete.[4] High tariffs lead to reprisals in kind, and tariff wars follow. While England, in spite of her declining economic supremacy, still clings to the general policy of free trade, and considerable progress is being made along the line of reciprocity,[5] most modern states maintain protective

[1] Fisk, International Commercial Policies, chap. iv.

[2] Ingram, History of Political Economy, chap vi. The formation of the German Empire had an important influence on the development of economic theory in Germany during the period 1850–1875. In contrast to the cosmopolitan economic principles of the classical economists, based on conditions in the British Empire, the new theory emphasized nationalism and restriction, and aimed at the amalgamation of the diverse elements in the new state and the protection of its industries. The new theory was a product of its own time and its own environment. See Ely, Outlines of Economics, pp. 669–670; McVey, Modern Industrialism, chap iv.

[3] Taussig, Tariff History of the United States, pp. 155–193; Dawson, Protection in Germany.

[4] Smart, Return to Protection.

[5] Osborne, "Development of Policy of Reciprocity," in Forum, Vol. XXV, pp. 683 ff.

tariffs as a means of securing revenue and of furthering their national interests, both economic and political.[1]

455. Commercial treaties. Whenever the commercial dealings among states reached a certain degree of advancement, international agreements or treaties were negotiated to regulate such trade. Treaties governing the trade relations of Rome and Carthage date back at least to B.C. 509; after the twelfth century the Italian city states negotiated numerous commercial treaties, both among themselves and with surrounding countries; when trade arose toward the end of the Middle Ages among the states of western Europe, they also drew up commercial agreements.[2] Even the trading relations between Christian Europe and the Turks, after the capture of Constantinople in 1453, were based upon grants made by the sultan to the rulers of the western states. During the seventeenth century, the mercantile theory of trade and the bitterness of international rivalries prevented the negotiation of many commercial agreements; but by the eighteenth century treaties of the modern type were enacted. In the Methuen Treaty of 1703, England and Portugal made mutual concessions and arranged for preferential tariffs.[3] By the end of the century, even England and France had made modifications favorable to both in their exclusive commercial policy; and the United States, after it had won independence, negotiated important commercial treaties with most of the European states.[4] The political disturbances that followed the French Revolution checked for a time the enactment of international agreements; but after the fall of Napoleon, the free-trade tendencies of the period were reflected in a number of treaties providing for lower tariffs. Of these the Cobden Treaty of 1860 between England and France was the best expression.[5] The reaction toward protection after 1870 was indicated in the commercial treaties negotiated by Germany, France, and the United States,

[1] On the economic principles underlying international trade, see Taussig, Principles of Economics, Vol. I, Bk. IV; Seligman, Principles of Economics, pp. 501–516.

[2] See article on "Commercial Treaties" in Encyclopædia Britannica.

[3] See Hertslet, Treaties and Conventions between Great Britain and Foreign Powers.

[4] Moore, International Law Digest, Vol. V. chap. xviii.

[5] McCarthy, History of our own Times, Vol. II, chap. xli.

maximum and minimum tariffs usually being fixed, although reciprocity was in some cases provided for[1] or "most-favored-nation" clauses[2] were included.

456. Development of freedom of navigation. Navigation, as the chief instrument of commerce, has also been a source of international difficulties and has come under international regulation.[3] The limited areas of the water basins known to the ancient world enabled them to be appropriated, controlled, and policed. The Greeks excluded the Phœnicians from the Ægean, and Carthage drew the dead line against the Romans at the Lacinian Cape. The whole Mediterranean finally became a Roman sea, the *mare nostrum*, and was effectively policed; the Roman jurists even developing the theory that the sea was open to the free use of all mankind. During the Middle Ages, however, because of the revival of trade and the prevalence of piracy, the principle of *mare clausum*[4] was developed, according to which the maritime powers asserted sovereignty over portions of the high seas. Venice, for example, maintained sovereignty over the Adriatic;[5] England claimed dominion over the Channel and the North Sea; and Denmark and Sweden divided the control of the Baltic. The growth of commerce after the discovery of America, and the extreme lengths to which Spain and Portugal[6] carried their claims of jurisdiction over almost all the sea, led to a reaction against this principle.[7] In the "Mare Liberum" of Grotius, published in 1609, the contention was urged that the sea is by nature incapable of appropriation or occupation;[8]

[1] For a brief sketch of American reciprocity, see Fisk, International Commercial Policies, chap. xii.

[2] On the most-favored-nation clause, see Moore, International Law Digest, Vol. V, sections 756–769; Herod, Favored Nation Treatment.

[3] Fisk, op. cit., chap. xvii. [4] Seldon, Mare Clausum seu de Dominio Maris.

[5] Venice maintained on the Adriatic a powerful patrol fleet under a *Capitano in Golfo*, which policed the sea for pirates and seized ships laden with contraband. Foreign vessels were searched and compelled to discharge two thirds of their cargo at Venice. Venice even appealed to the pope to confirm her dominion over the sea. See Pompeo Molmenti, Venice in the Middle Ages, Vol. I, pp 117, 121–123, 130.

[6] Spain tried to monopolize the Caribbean Sea, and even the Pacific Ocean. The Indian Ocean was held a closed sea by Portugal.

[7] On the great controversy waged over the question of *mare clausum*, see Nys, Les Origines de droit international, pp. 379–387.

[8] Cf. Bynkershoek, De Dominio Maris, pub. in 1702.

although England for a time persisted in her claims [1] and waged war with the Dutch over the control of their adjacent waters. At present,[2] international law recognizes the sovereignty of a state over the high seas for a distance of three miles from its shores, and over bays that indent its coast; otherwise the high seas are open equally to all.[3] Free navigation of straits, inland seas, and rivers came later.[4] Until 1857 Denmark levied sound dues on vessels navigating the entrance to the Baltic;[5] the Black Sea was a Turkish lake until it was neutralized by the Treaty of Paris in 1856.[6] At present navigable rivers, even though wholly within the boundaries of states, and interoceanic canals, built and maintained at great expense by certain states, are open to peaceful navigation by vessels of all states. States still secure certain advantages to their national shipping by excluding certain lines of navigation or classes of merchandise from foreign competition. Thus the United States since 1817 has limited its coastwise trade to the vessels of its own citizens.[7] Sometimes foreign ships, while allowed to share in the trade of a country, are subject to financial burdens from which domestic ships are exempt; sometimes the merchant marine of the home state is aided by subsidies, directly or indirectly granted by the state.[8] Such subsidies, of which England has been the chief exponent, usually aim, not only at developing national trade and shipping, but also at building up the potential naval resources of the state.

III. International Warfare

457. Causes of war. Wars result partly from the physical and psychological make-up of human individuals, partly from the social, economic, and political environment in which they live. Certain

[1] Not until 1805 did England give up her claim to sovereignty over "The Narrow Seas."

[2] For the Bering Sea controversy, the last dispute involving the principle of *mare clausum*, see Snow, Treaties and Topics in American Diplomacy, pp. 471–509.

[3] Hershey, Essentials of International Public Law, chap. xiii.

[4] For the development of the principle of free navigation of important rivers, see Hershey, op. cit., pp. 205–209, and authorities there cited.

[5] Schuyler, American Diplomacy, pp. 306–316.

[6] Hazen, Europe since 1815, pp. 615–616.

[7] Johnson, Ocean and Inland Water Transportation, chap. xviii.

[8] Johnson, op. cit., chaps. xxi–xxii.

human factors, such as hunger, greed, racial aversion, national jealousy, love of glory, and national vanity, lead to strife when the prevailing physical, social, or political conditions make it difficult to gratify these desires without recourse to violence.[1] An examination of the chaotic material of early history brings to light several primary distinctions. The expansion of population, by which the earth was filled and states were created, showed predominantly a character of either conquest or colonization; the former by armed force, the latter by voluntary enterprise. As the human swarm settled, their social organization was marked by a preponderant tendency toward either despotism or democracy. The economic activities on which both expansion and organization depended displayed the essential attributes of either exploitation or cultivation. Shading off from one another by infinitesimal degrees, these motives and methods, depending largely upon the balance of energy and upon favorable conditions and opportunities, led broadly in the direction of either war or peace. In early history the balance unquestionably turned toward war; and the typical states, formed by conquest, were forcible unions of peoples, differing in race, religion, economic status, and political rights.[2]

458. War among primitive peoples. War was the normal condition among primitive tribes. In the natural economy that prevailed, scarcity of food invariably necessitated conquest and expansion, or extermination. When increasing population caused hunting grounds to overlap, when failure of pasturage or drought caused pastoral tribes to migrate, or when the law of diminishing returns began to press upon an agricultural population, war was the logical outcome.[3] Oriental empires were formed by conquest, and conquest remained their chief end.[4] In spite of division of labor, improved means of production, and the exploitation of a slave class, all of which increased the available food supply, war ultimately became an economic necessity. States instinctively turned to conquest as a means of opening up foreign lands and securing booty

[1] Hershey, "Causes of War," in The Independent, Vol. LVII, pp. 1036 ff.

[2] Perris, War and Peace, chap. i.

[3] Robinson, "War and Economics in History and in Theory," in Political Science Quarterly, Vol. XV, pp. 581 ff.

[4] Perris, op. cit., chap. ii.

and tribute.[1] Not until the empty lands were all occupied and every state's borders met those of others of nearly equal strength did the new economy of coöperative effort and commerce become imperative, and peace become the normal condition. So highly developed were methods of warfare in the ancient empires that little progress, save in engineering equipment, was made for thousands of years.

459. War among the Greeks. Among the early Greeks, wars were waged for herds, slaves, and fertile lands. Piracy was an honorable occupation and private warfare a recognized method of obtaining property. Greek literature of the early period clearly indicates that war was the chief source of wealth and honor.[2] In the limited areas of the Greek states the effort to find support for a growing population dominated every economic, military, and political movement.[3] The Dorian migration was the work of a hardy mountain tribe that established itself by conquest in a more fertile territory. The Greek colonies were founded, partly at least, through plundering raids.[4] The Persian invasion was the logical result of the clash between the Greek colonies in Asia Minor and the expanding Persian Empire.[5] Even the growth of commerce intensified conflict by dividing Greece into two parties, — the continental, military, natural-economy group that formed the Spartan League, and the maritime, commercial, naval, money-economy group that fell under the control of Athens. The Peloponnesian War that resulted was merely an expansion of the earlier struggle for existence, and weakened the leading cities in turn. Later, when the gold and arms of Macedon had united the rival states and imposed peace, the Asiatic campaign was planned to provide for the idle and turbulent landless men in the Greek cities. The wealth and weakness of Persia, discovered by the Greeks under Xenophon, attracted the adventurers who accompanied Alexander; and in the wake of his conquests cities were established and Greek emigration into the fertile lands of the Orient flowed unchecked for centuries.[6]

[1] Cunningham, Western Civilization: Ancient Times, pp. 24–38.
[2] Iliad, III, 69–74; Odyssey, XIV, 210–234, 258–272; Thucydides, I, 1–21.
[3] Cunningham, op. cit., pp. 99–119.
[4] Morris, History of Colonization, Vol. I, pp. 85–125.
[5] Seignobos, History of Ancient Civilization, chap. xiii.
[6] Robinson, op. cit., pp. 586–593.

460. War in early Rome. The early Romans, living in the pastoral and agricultural stages, were dependent on war to enlarge their lands. Even after the transition to a money economy during the fifth and fourth centuries B.C., the policy of conquest continued. The inland location of the city prevented large-scale commerce and the tradition that the Romans, descended from the war god, were destined to conquer and rule became firmly fixed in Roman thought. The Romans therefore despised commerce and considered it their destiny to conquer and govern the commercial states and levy tribute upon them. Economic conditions and national traditions both fostered the Roman policy of conquest and exploitation.[1] The temple of Janus at Rome, whose gates remained open while the Roman people were engaged in war, was closed but once, and that for only a few years, during the five centuries of the republic.

461. The Roman conquests. Rome began by subjecting her neighbors, and these were the hardest and slowest of her conquests. Four centuries were required to unite Italy under Roman rule.[2] Through Sicily, Rome came into contact with Carthage, and three terrible wars resulted in the destruction of Carthage and the conquest of Africa. The Orient, decadent after the death of Alexander, fell an easy prey to Roman arms; but the barbarous and warlike peoples of the West offered more resistance. A century was required to subdue Spain; the wars against the Gauls, though short, were extremely bloody; and the Teutons finally checked the expanding Roman frontiers. The Romans did not from the first plan to conquer the world. Even after winning Italy and Carthage, to whose conquest conditions naturally led, they waited a century before subjecting the Orient, which practically laid itself at their feet. Rome was led from conquest to conquest partly by necessity, partly by tradition, but chiefly for the profits of victory. A successful general gained popularity, honor, and power. The soldiers seized much booty and secured large sums from their commanders. Every new

[1] Robinson, "War and Economics in History and in Theory," in Political Science Quarterly, pp. 593–595.

[2] This process was the result of agricultural colonization and road building, and not of conquest alone. The organic nature of Italian unity was shown by the faithfulness of the Latin allies in spite of frequent opportunities to revolt. See Perris, War and Peace, chap. iv.

conquest gave a new area to exploit; taxes were abolished when the treasure of Macedon was carried to Rome. War was a lucrative enterprise in the ancient world.[1] All roads leading to Rome were channels for the booty and tribute of the provinces, and in Rome the ideal of conquest was realized in unrivaled splendor. However, the extensive system of slavery resulting from the wars, and the absence of industry in a state dependent upon tribute were prime causes in the later decline of the empire.[2]

462. The Christian church and warfare. The influence of Christianity at first favored peace. Its doctrines of self-sacrifice, endurance, and brotherly love and its cosmopolitan ideal of a universal spiritual commonwealth were in striking contrast to the narrow exclusiveness of other religions; and the gradual acceptance of these ideals removed many of the former causes of war. Warfare and slavery, the great buttresses of the military empires of the ancient world, were both attacked by the teachings of the early church. The followers of Christ were told to disarm at once and by their patience and suffering to shame their persecutors. Against the ideal of patriotism, the church placed the ideal of universal benevolence. Courage as a martial virtue took a new form in passive resistance of violence, and the early church fathers[3] held that no Christian could bear arms or shed blood. As the church developed its centralized organization on the basis of Roman legal ideas, became reconciled with the state under Constantine, and acquired temporal authority by its alliance with the Frankish monarchy[4] after the fall of the Roman Empire, its attitude toward warfare changed. Force was needed to protect its growing property in land; the hope of miraculous success in war offered to the barbarians a powerful motive for conversion and aided the missionary work of the church.[5] Especially when Christendom was in mortal fear of the Moslem peril did the warlike spirit pervade the church, which taught the duty of war

[1] Seignobos, History of Ancient Civilization, pp. 237–247.

[2] Robinson, op. cit., pp. 595–597.

[3] For example, Tertullian, Clement, Origen, and Basil.

[4] Bryce, Holy Roman Empire, chap. iv.

[5] Cf. the conversion of Clovis. See Gregory of Tours, Ecclesiastical History of the Franks, Bk. II.

against the infidel and offered a heavenly reward for death on the field of battle.[1] The church had become thoroughly imperialized.

463. Warfare in the Middle Ages. Among the northern barbarians war was conceived as the natural and honorable occupation of free men.[2] Need for food and for more extended lands compelled frequent migrations and constant warfare. Chosen bands of youths or sometimes the whole nation set forth to find new homes or to perish.[3] In return for land the barbarians were willing to serve in the Roman armies; revolts and wars followed only when the demand for land and food was refused. The fall of the Western Empire resulted from such migrations and from the seizure of government by those who already controlled the army. After the barbarian invasions, further wars resulted when new tribes attempted to settle in the fertile provinces or to secure for themselves a share of the revenues derived from the subjugated population.[4] Some of these attempts, for example those of the Normans in France, of the Arabs in Africa and Spain, and of the Magyars and Turks in the East, succeeded; but in general they failed because the social and political organization of feudalism, which arose to meet these attacks, gave to the defenders a superior military system.[5] In feudalism war and government were private undertakings. In the absence of money, industry, and trade, land was the only source of wealth. The peasants, laboring on the land, were useless for war; hence a standing army of soldiers and officials, paid by grants of land, was intrusted with defense and administration. Private warfare, the only form of business undertaking, enriched the successful feudal lords through lands, booty, and ransom.[6] The Hundred Years' War between England and France, the nearest approach to an international war, was essentially a feudal contest on a large scale.[7] Wars, not very dangerous

[1] Perris, War and Peace, pp. 55–64.

[2] Tacitus, Germania, 14.

[3] On the *ver sacrum*, a similar custom among the Latin peoples, see Smith, Dictionary of Greek and Roman Antiquities; Frazer, The Golden Bough, Vol. II, p. 54.

[4] Oman, Dark Ages, chap. xxiv.

[5] Oman, History of the Art of War: The Middle Ages, Bk. III.

[6] Robinson, War and Economics in History and Theory, pp. 599–600.

[7] Adams, Growth of the French Nation, chap. ix.

to men protected by armor, filled the lives of the feudal knights; and in some parts of Europe the right to private warfare remained until the fifteenth century.[1]

464. The Crusades. The rise of the Mohammedan religion and the formation of its empire furnished the cause and the opportunity for a new series of wars. The Mohammedan faith was spread, not by missionaries, but by armies.[2] Mohammed himself had said "Fight the infidels until all resistance ceases and the religion of Allah is the only one. War against the infidels is a sacred war; Allah is with the combatants, and those who fall in battle will pass straight to Paradise." The Crusades were the reaction of Christian Europe against the Mohammedan power, which, starting in Arabia in the seventh century, had spread by conquest over Persia, Syria, Egypt, North Africa, and Spain, and had been checked only by the vigorous efforts of Constantinople in the East and of the Franks in the West.[3] Many motives led men to join the vast armies which set out for the Holy Land. Religious fervor, fired by tales of the persecution of pilgrims and the desecration of holy places, was combined with the desire to seize the fabulous wealth of the Orient, which was considered the rightful prey of Christians. The increasing population of Europe and the attempts of the church and of the rising kings to prevent private war and to destroy the power of the feudal nobility drove many to find an outlet for their adventurous spirit and to seek their fortunes in new fields. The demands for transportation and supplies for multitudes of men stimulated trade and shipping; and in the wake of the Crusades, commerce between the East and the West was revived.

465. Wars caused by revival of commerce. The latter part of the Crusading period became therefore increasingly important in its political and economic aspects, as the religious fervor died and the attempts at building up feudal principalities in the Orient failed; and the early movement, typified by the religio-warlike zeal of the military monkish orders, was replaced by the business ventures engineered by the Italian cities.[4] The economic expansion

[1] Seignobos, History of Medieval and Modern Civilization, pp. 71–79.
[2] Gibbon, Decline and Fall of the Roman Empire, chap. li.
[3] On the Battle of Tours (732), see Creasy, Fifteen Decisive Battles, chap. vii.
[4] Adams, Civilization during the Middle Ages, chaps. xi–xii.

that followed occupied the energies of Europe and prevented any further large-scale movement of peoples until after the discovery of America. The last wars of the Middle Ages resulted, accordingly, from commercial rivalries and the attempts to secure commercial monopolies on the part of the growing cities. Venice and Genoa in particular, and also other cities in Italy,[1] Germany, and the Netherlands, waged incessant wars. Against the robber knights, tempted by the wealth of the towns, against pirates who infested the seas, and against commercial rivals, the cities were compelled to defend themselves or to wage aggressive campaigns.[2] Internal strife between factions within the cities complicated the situation and increased the turmoil.[3]

466. Wars caused by dynastic rivalries. Toward the end of the Middle Ages, when a money economy based upon industry and trade replaced land as the measure of wealth, military service was commuted for money payments, and feudal levies were changed into standing armies, controlled by the kings of the rising national states. Rivalries among these states for territory and for trade led to wars of national expansion, increasing in magnitude and destructiveness as the states that waged them grew in size and strength. The first half of the sixteenth century was marked by a bitter conflict between France and the Hapsburg Empire, the most powerful states of that day. Royal ambition, territorial gain, and the control of the Italian cities and their trade were among the motives for this war; and England, entering the contest, first on one side, then on the other, was brought into the current of European politics, and the way was paved for the principle of the balance of power.[4]

467. The religious wars. The period from the middle of the sixteenth to the middle of the seventeenth century was characterized by a series of wars, civil and international, resulting partially from the division of Europe into rival camps by the Protestant Reformation.[5] In the civil wars of the period, religious motives

[1] On the Lombard League, see Freeman, History of Federal Government in Greece and Italy, pp. 592–617.

[2] Cunningham, Western Civilization: Modern Times, pp. 121–129.

[3] Symonds, The Renaissance in Italy: Age of the Despots, chaps. iii–iv.

[4] Johnson, Europe in the Sixteenth Century.

[5] Perris, War and Peace, chap. vi; Robinson, History of Western Europe, chaps. xxvi–xxx.

were mingled in Germany with the desire of the princes for personal advantage and for independence against the emperor; in France, with a contest for the throne; and in England, with the struggle between king and parliament. Sweden entered the Thirty Years' War to gain territory on the shores of the Baltic; France, a Roman Catholic state, aided the Protestants in Germany in order to weaken the Austrian Hapsburgs and to gain territory toward the Rhine; Holland waged her war of independence against Spain largely because of economic and commercial oppression, and built up her commerce and secured colonies at the expense of her former ruler; England combined religion, politics, and business when her seamen seized the Spanish treasure ships and defeated the Armada. The Peace of Westphalia (1648), which closed this era,[1] marked the beginnings of recognized international relations and the holding of international conferences, and the rise of international law.

468. Commercial and colonial wars. Out of the national rivalries and the religious wars grew the commercial and colonial wars, which continued until the end of the eighteenth century. These wars were the logical outcome of the mercantile theory and the attempts of all states to maintain a monopoly of trade. As long as Spain was the leading world power and controlled the New World, the maritime states directed their efforts against her. When her sea power was broken, England and Holland engaged in a series of wars for commercial supremacy. The rise of France to headship in Europe, as the Hapsburg power declined, compelled the other states to combine against her; and after 1688, when William of Orange became also king of England, the rivalry of Holland and England came to an end. During the following century, France and England were the chief rivals in a series of wars waged in Europe, on the sea, in America, and in India, the issue at stake being European headship as well as commercial and colonial supremacy. The success of England created the British Empire, gave it naval and commercial preëminence, and left France, in the Treaty of Paris (1763), stripped of her colonial dominions.[2] During the latter part of this contest, Austria and Prussia began their

[1] Gindely, History of the Thirty Years' War, trans. by A. Ten Brook.
[2] Caldecott, English Colonization and Empire, chaps. iii–v.

struggle for the control of Germany. The attempt of England to enforce commercial monopoly in her American colonies led to the American Revolution, in which France and Spain, hoping to weaken England, aided the revolting colonies to win their independence.[1] Spain, France, and England, in turn, therefore, occupied the dominant position in European affairs after the rise of national states; Portugal and Holland, powerful for a time, lacked the territorial basis to maintain the struggle against the larger states.

469. Wars of the nineteenth century. The wars of the French Revolution started in a conflict between monarchy and democracy, but soon widened into a general European contest in which France and England, as the chief contestants, renewed their rivalry for European supremacy and for commercial empire.[2] The defeat of Napoleon and the failure of his continental system left England unquestionably supreme. During this war both sides plundered American commerce, the growth of which alarmed the European states; and the resultant War of 1812 destroyed England's hope of regaining her American possessions.[3] The wars of the nineteenth century resulted mainly from the attempts of peoples to secure constitutional government and of nations to secure political organization.[4] The waves of revolution that swept Europe in 1820, 1830, 1848 illustrate the former; the wars by which Germany and Italy were unified illustrate the latter.[5] Territorial and commercial rivalries remained as powerful motives and underlay the Crimean War, the Russo-Japanese War, and many minor conflicts.[6] Recent wars may be classified as resulting from the following causes: desire for commercial and colonial expansion; desire to secure or maintain political or racial supremacy; motives of humanity, mingled with political and commercial interests; desire to secure political unity on national lines; conquest or aggression; suppression of revolutionary or democratic movements; and desire for political independence.[7]

[1] Trevelyan, The American Revolution.

[2] Rose, Revolutionary and Napoleonic Era, chaps. viii–xi.

[3] Von Holst, History of the United States, Vol. I, pp. 226–272.

[4] Perris, War and Peace, chap. x.

[5] Robinson and Beard, Development of Modern Europe, Vol. II, chaps. xvii–xxii.

[6] Ibid. chap. xxix–xxx.

[7] On the causes of war, see Amos, Political and Legal Remedies for War, pp. 57–130.

470. Methods of waging war. In the evolution of the state through warfare, important consequences on both territorial boundaries and internal organization have followed improvements in weapons or changes in methods of waging war. The use of bronze or iron gave certain tribes decided advantages over others still dependent upon wood and stone. The wearing of armor, the lengthening of weapons, the invention of implements to hurl missiles, and the use of war chariots and cavalry were other improvements that gave military supremacy to states devising them. The Spartan hoplites, the Macedonian phalanx, and the Roman legion were in turn the most effective organizations for military purposes. The English long bow was a decisive factor in the early part of the Hundred Years' War,[1] and the invention of gunpowder, in destroying the military supremacy of the feudal nobility and creating standing armies of peasant infantry, aided the rise of national monarchies and prepared the way for modern democratic states.

471. Importance of sea power. Sea power early became an element in international warfare. It has, except during the Dark Ages, constantly increased in importance, and it promises to be the decisive factor in any future war between important states.[2] It was the navy of Athens that built up her empire and supported her preëminence in the Hellenic world; the expansion of Rome beyond Italy was possible only after her new navy had shattered the sea power of Carthage. With the revival of commerce after the barbarian invasions, the Italian cities became the naval leaders and the centers of trade and culture. As national states arose, Portugal and Spain, the leading maritime powers, were able to monopolize for a time the benefits of the New World and the new routes to the Orient. Sweden, inheriting the naval preëminence of the Hanseatic League in north Europe, had a brilliant, though brief, career in the Baltic region. England and Holland, the naval powers of the seventeenth century, acquired colonies and built up commerce, securing thereby a position in world politics out of all proportion to their limited territorial areas and small populations. The failure of France to keep her navy up to the high standard of her

[1] Oman, History of the Art of War: The Middle Ages, Bks. VII–VIII.
[2] George, Relations of Geography and History, chap. vii.

land forces was largely responsible for the loss of her colonial possessions [1] and for the failure of Napoleon's imperial plans.[2] In both cases, England's sea power proved the stumblingblock to French expansion. In the formation of the United States [3] and in the more recent rise of Japan, naval strength played a prominent part; and the recent growth of the German navy has seriously affected international politics. Sea power for states with extensive commerce, scattered colonies, or insular position, is absolutely necessary for national existence; and the possession of sea power, demanding coaling and naval stations in various parts of the world, leads in turn to national expansion and to the occupation of strategic points on the great routes of international traffic. Thus the Portuguese and the Dutch occupied the Cape of Good Hope as a port of call on the voyage to the East Indies; Singapore and Aden, the "coal holes of the East," are among the most valued of British possessions; and the United States, since acquiring the Philippines, has secured stepping-stones across the Pacific.[4]

472. Economic and political consequences of war. In the relation of economic and political development to warfare, several broad generalizations may be made. In early times the pressure of population upon the food supply and the prevalence of slavery led to the predatory conquests of early empires, seeking captives and tribute. Later, when land became the chief source of wealth, and society consisted of feudal lords and serfs, constant warfare obtained in petty local units, the aim of each being to increase its domains and secure additional revenue. A search for wider lands, the growth of commerce, and the introduction of a money economy led to national wars for territory, trade, and colonies. The varying rates of progress in states differently situated and the clash of different economic systems have been fertile causes of warfare. Similarly, changes in the political system resulted in wars. The break-up of the ancient empires was followed by centuries of feudal anarchy and strife. The collapse of feudalism led to the bitter dynastic

[1] Mahan, Influence of Sea Power upon History, chaps. i–viii.

[2] Mahan, Influence of Sea Power upon the French Revolution and Empire.

[3] Mahan, Influence of Sea Power upon History, chaps. ix–xiv; Sea Power in its Relations to the War of 1812.

[4] Mahan, Interest of America in Sea Power, Present and Future.

wars that marked the rise of modern states. In turn, absolute monarchy was replaced by democracy within these states only after a series of revolutions and wars of national liberation.[1]

473. Influences favorable to peace. Several causes of war, formerly dangerous, have almost disappeared in modern times.[2] Racial hatreds, caused originally by the exclusiveness of early groups based on common kinship and religion, are less powerful in the cosmopolitan states of modern times, although recent contact between Orientals and Occidentals seems to indicate racial antipathies[3] that may create difficulties. Religious wars have almost disappeared and no wars have recently been waged for dynastic interests or to maintain the balance of power. Instead, a system of alliances and the joint action of the great powers in the concert of Europe have prevented general disturbances. The growth of commerce operates as a cause both of war and of peace. Industrial conditions within the state and the growth of international trade bind many interests into a unity regardless of political boundaries, while on the other hand industrial and commercial rivalries have been a chief source of recent international disputes. The mighty forces of nationality and democracy, which have become prominent during the past century, while they may finally insure peace, have thus far worked themselves out largely in connection with armed conflict. The integration of the modern world into larger political units, especially by the process of federation, has also removed many former causes of strife. Other powerful influences in favor of peace are the organization of labor along international lines, the growth of international judicial, legislative, and administrative systems,[4] and the general tendency among western nations toward an arrest of population through a decreasing birth rate. Philosophical doctrines in favor of peace, based upon rational and humanitarian grounds, while not new, exert an unprecedented influence upon modern thought.[5]

[1] Perris, War and Peace, pp. 247–252.

[2] Grane, The Passing of War.

[3] Weale, The Conflict of Color.

[4] Bridgman, First Book of World Law; World Organization; Reinsch, Public International Unions.

[5] Pamphlets published by the American Association for International Conciliation; Hirst, The Arbiter in Council; Butler, The International Mind; Graham, Evolution and Empire.

474. The costs of war. Chief among the forces strengthening at present the tendency toward international peace is the cost of war and warlike preparations.[1] About six millions of people are in arms in Europe, withdrawn from industry, costing, in addition to what they might produce, at least six to seven billions of dollars annually. This is an enormous burden upon the community at large. The economic competition among nations is leading the European states to realize that the burden of their standing armies puts them at a disadvantage in the world's markets, especially when competing with the United States. The movement toward reduction of armaments that led to the First Hague Conference was based upon this fact. The rescript issued by the czar affirmed that "the moral and physical forces of the nations, labor and capital, find themselves turned aside from their natural course and consumed in a non-productive manner"[2] by the cost of armaments. War of the most deadly character is constantly being waged to-day without firing a shot. Tariffs are used with more effect than were armies in former times. Weaker states, unable to compete in the world's markets or to bear the financial burdens of armies and navies, are forced to the wall. War to-day more than ever before is a conflict of resources and civilizations. Not only are enormous financial burdens laid upon states by the preparations for war and the destruction of property resulting from actual hostilities, but it is even doubtful whether successful war brings any adequate returns. A recent book[3] undertakes to prove that armaments do not pay, because the smaller states, with feeble armaments, enjoy better financial credit — their government bonds selling at higher prices — than the great military powers; that war indemnities do not pay, because the relations of trade are disturbed by the transfer of large sums from one country to another; that annexations do not pay because the cost of assimilation is not repaid by the taxes derived from them; and that war in general does not pay because property cannot be confiscated on a large scale without disturbing trade and credit.[4]

[1] Bloch, The Future of War; Jordan, Unseen Empire; Ferrero, Militarism.

[2] Holls, Peace Conference at The Hague, pp. 18 ff.

[3] Angell, The Great Illusion. A criticism of the somewhat one-sided point of view of this book is found in Mahan, Armaments and Arbitration, chap. vi.

[4] See also Novicow, War and its Alleged Benefits, trans. by T. Seltyer.

475. Permanence of certain causes of war. At the same time, as long as the law of diminishing returns puts pressure upon population in its efforts to secure food, and as long as the existence of independent states creates national rivalries, war, necessary for growth and expansion, will probably remain as the final form of national business undertaking and the final manifestation of national strength and spirit. Permanent and desirable peace demands such methods and organization of production and distribution that all may be guaranteed a sufficient share of the proceeds, and such a political organization of humanity that universal and local interests — world sovereignty, national autonomy, and individual freedom — may be justly balanced. That such an equilibrium between population and food supply and such an adjustment of the machinery of a democratic world federation are possible or even desirable is by no means assured.[1] It is even believed by some that the elasticity of diplomacy, supported if necessary by force, is preferable to the rigidity of world law in deciding, according to principles of equity, questions affecting the fundamental interests of peoples.[2]

[1] Hill, World Organization and the Modern State, chap. vii; Trueblood, Federation of the World.

[2] Mahan, op. cit., chaps. i–vi.

CHAPTER XI

RELATIONS AMONG STATES (CONTINUED)

I. INTERNATIONAL LAW AND DIPLOMACY

476. Conception of family of nations. Man is not only a fighting animal, carrying on a desperate struggle with his environment and with his fellows, but he is in addition a social and political being who realizes that coöperation and organization are also essential to human progress.[1] Men, therefore, from the earliest times have lived in groups within which mutual aid has modified competition. After a time, coöperation was extended also to relations among groups which, as the primitive hordes widened into modern political units, now include all civilized states. A recognition of the community of interests in international relations led to the growth of customs and to the formation of rules that should guide the actions of states, not only in peaceful intercourse but even in time of war. Accordingly, the conception finally arose of a family of states, each sovereign and independent, yet with a strong feeling of interdependence, possessed of equal rights and obligations under a body of principles called international law.[2]

477. International rules in ancient world. International law as a system of well-established rules observed among a community of legally equal and territorially sovereign political units could not exist previous to the rise of modern national states toward the close of the Middle Ages.[3] Certain rules and customs, usually with a religious sanction, were observed, however, in intercommunity intercourse even in antiquity.[4] In the ancient world peoples

[1] Pulszky, Theory of Law and Civil Society, chap. vi.

[2] Lawrence, International Problems and Hague Conferences, chaps. i–iii.

[3] For the historical development of International Law, see Walker, History of the Law of Nations; Hill, History of Diplomacy in the International Development of Europe. Good brief accounts are found in Hershey, Essentials of International Public Law, pp. 26–90; Wilson and Tucker, International Law, chap. iii.

[4] Hershey, "History of International Relations during Antiquity and the Middle Ages," in American Journal of International Law, October, 1911.

of the same race acknowledged certain duties to one another, but states as such possessed no rights and were subject to no obligations. The tie of kinship, real or fictitious, chiefly determined the condition of the individual within the state and prescribed the duties of the state to other states.[1] Nevertheless, the relations of early states were not entirely unregulated or directed by unrestrained self-interest alone. A crude form of international law and diplomacy existed in ancient China.[2] Treaties of alliances, cemented by marriages and providing for mutual extradition and humane treatment of political refugees and immigrants, were negotiated by the Egyptians with their neighbors earlier than B.C. 1200.[3] In India the Code of Manu, compiled about B.C. 500, provided for humane treatment of both combatants and non-combatants.[4] The Persians recognized the value of arbitration as a means of preventing war;[5] and the Mosaic Code of the Hebrews contained germs of a higher law of warfare in placing limits on the right of devastation.[6]

478. Progress of international principles among the Greeks. The dispersion of the Greeks in many cities and colonies, which were practically independent communities, led to intercourse and the recognition of general obligations. Based upon the idea that all Hellenic peoples, being of the same race and similar religion, were united by bonds that did not exist between them and other peoples, crude forms of international comity were developed and rudimentary international rules arose.[7] The persons of heralds were respected, ambassadors were sent and received,[8] and alliances were made. Certain customs — for example, the right of asylum in temples, truces to bury the dead, and suspension of hostilities for religious purposes, such as the Olympic games — were generally observed.[9] Agreements to submit disputes to the arbitration of

[1] Lawrence, Principles of International Law, pp. 17–19.

[2] Martin, The Lore of Cathay, pp. 22–23.

[3] Breasted, History of Egypt from the Earliest Times, pp. 437–438.

[4] The Ordinances of Manu, trans. by Burnell and Hopkins, Lecture VII, Nos. 90–93.

[5] Herodotus, VI, 42.

[6] Deuteronomy xx, 10–20.

[7] Bluntschli, Das moderne Völkerrecht, Introduction.

[8] On the Amphictyonic Council, see Freeman, History of Federal Government in Greece and Italy, chap. iii.

[9] Grote, History of Greece, chap. xxviii.

individuals, friendly cities, or the Oracle of Delphi were frequently included in treaties; and agreements were made even with foreigners for reciprocity of civil rights and for the settlement of commercial disputes.[1] During the third century B.C., when Rhodes became the chief naval and commercial state of the Ægean, a maritime code arose, which was generally observed in the Hellenic world. From this Rhodian Sea Law many of the commercial regulations of the Roman Empire were derived; its influence probably affected the codes of the Middle Ages after the revival of commerce; and its principles form part of the modern law of naval capture and of commercial regulation.[2]

479. International position of Rome. The diplomatic relations of Rome with other states began with her membership in the Latin League, a group of cities of which she finally became the head. Later, the various steps by which the unification of Italy was brought about were accomplished by statecraft as well as by force. The Roman policy — divide and conquer — underlay many of the treaties of this period; and the peoples of the peninsula were gradually isolated from one another and united in alliances of various degrees of dependence with Rome.[3] After the wars with Carthage, Rome embarked on her career of world conquest and created the empire, thus making impossible international relations in a world under one sovereignty.[4] Rome, therefore, contributed to international law chiefly in extending her own law to wider spheres and in adjusting her legal ideas to conditions in remote territories. Her work influenced international private law rather than international public law;[5] and the idea that the world was dominated by a common superior survived throughout the Middle Ages, typified in the theory of the Holy Roman Empire and of the papacy.[6] By reducing all states to a common subjection, Rome paved the way for later legal relations among states.

[1] Phillipson, International Law and Custom of Ancient Greece and Rome, Vol. I, chaps. v–xii; Vol. II, chap. xx.

[2] Ashburner, The Rhodian Sea Law.

[3] Belloch, Der italische Bund unter Rom's Hegemonie.

[4] Westlake, Principles of International Law, Vol. I, pp. 18–23.

[5] Wilson and Tucker, International Law, p. 14.

[6] Bryce, Holy Roman Empire, chap. vii; Lawrence, Principles of International Law, pp. 20–23.

480. Roman law and international law. Nevertheless, two branches of Roman law influenced the subsequent development of international law proper. The *jus fetiale* consisted of a set of rules, ceremonial and formal in character, that determined the actions of a special body of priests known as the College of Fetiales.[1] Their principal functions were to give advice upon questions concerning war and peace, to act as heralds and ambassadors, to receive and entertain envoys from foreign states, and to give effect to formal declarations of war that had been sanctioned by the authority of the Roman assemblies.[2] The powers of this body were later merged in the general authority of the emperor. The *jus gentium* consisted of the body of usages and principles common to all nations among whom Roman magistrates administered justice.[3] It originated from the necessity of giving a legal status to the alien class in Rome and in securing to them some measure of protection for person and property. In the relations between Romans and foreigners and in the jurisdiction of the *praetor peregrinus* over aliens, rules of law common to Rome and to a number of her subject peoples were applied. By the later Roman jurists, the principles of this law found existing among all nations were practically identified with the laws of nature. In common with the canon law and the civil law, the *jus gentium* influenced the legal conceptions of the medieval period and helped to subordinate the barbaric violence of the Teutons to the reign of peace and order, first within the state, later among states. Besides, the *jus gentium* was erroneously considered by many early modern interpreters of Roman law to have been a system of rules intended for the adjustment of international relations; and some of its principles were directly appropriated by the founders of international law and were applied to international practice.[4]

481. International conditions in the Middle Ages. After the fall of the Roman Empire, the theory of a common superior over states still survived. The spell of world-wide dominion and the

[1] Hill, History of European Diplomacy, Vol. I, pp. 8–11.

[2] Phillipson, op. cit., Vol. II, chap. xxvi.

[3] Phillipson, op. cit., Vol. I, chap. iii; Bryce, Studies in History and Jurisprudence, pp. 570–586.

[4] Lawrence, op. cit., pp. 38–42.

tradition of the benefits of the *pax Romana* remained after the barbarian invasions; and men believed that the empire was to be eternal as well as universal. For a time, after Rome ceased to be the actual seat of government, the world was ruled, in name at least, from Constantinople; the coronation of Charlemagne in 800 shifted imperial power to the new line of Frankish sovereigns; later, the papacy, which had been the chief agent in creating the new or Holy Roman Empire, became its rival for temporal power and for a time exercised undisputed sway over Christendom. In actual fact, the medieval period was an age of organized anarchy, of regulated violence; and, in spite of legal forms and customary law, interfeudal relations were of the lowest kind.[1] In the eleventh century attempts were made by the church to establish peace by means of the Truce of God and the Peace of God;[2] and a similar result was aimed at by the King's Peace in England and the various *Landesfrieden* in Germany;[3] but private warfare was not suppressed until the beginnings of the modern period.[4]

482. Tendencies hostile to international law. During the Middle Ages there was but little consciousness of a direct legal relation among sovereign princes outside of the graded obligations of the feudal system. Separate principalities existed, but the sense of unity was so deep that the idea of distinct and reciprocal relations among them was lacking. The bond of relationship was felt, not so much among themselves as with the higher authority to which they all were subjected. Disputes not settled by warfare were sometimes submitted to the arbitration of the pope, and until the thirteenth century his decisions were usually obeyed.[5] Kings, bishops, eminent jurists, and even cities were sometimes chosen as arbiters during the Middle Ages;[6] but the practice did not materially mitigate warfare, and few general principles for the guidance of intercommunity relations were developed. For a time, indeed, there was even a tendency toward the view that states, in

[1] Nys, Les Origines de droit international, chap. v.
[2] Thatcher and McNeal, Source Book for Medieval History, Nos. 240–244.
[3] Ibid. Nos. 245–249.
[4] Luchaire, Manuel des institutions françaises, pp. 228–234.
[5] Hill, World Organization and the Modern State, pp. 78–80.
[6] Moore, International Arbitrations, Vol. V, pp. 4825–4831.

their mutual dealings, need recognize no law but the right of the strongest or most cunning. Machiavelli in *The Prince* (1513) set forth the doctrine that in matters of state ordinary rules of morality did not apply.[1] Fortunately, other tendencies were leading in a different direction and were preparing the way for a more rational and humane conception of interstate relations.

483. Influences leading to international law proper. In addition to the unifying influence of the Roman Empire and the humanitarian cosmopolitanism of the Christian church, to the legal influences of the civil and the canon law, to the unifying of national interests and the broadening of international comity in the Crusades, and to the emphasis upon honor and equitable dealing resulting from chivalry,[2] several main lines of movement contributed chiefly to the rise of international law and to modern diplomatic relations. Foremost among these was the revival of commerce which, centering in the Italian cities, was greatly stimulated by the Crusades. In spite of feudal disorder, piracy, and heavy port exactions, trade was gradually extended to north Europe by overland routes and by the sea; and leagues of cities, foremost among which was the Hanseatic League, were formed for its protection and extension. Later, the opening of new routes to the Orient and the discovery of America transferred the center of commercial activity to the Atlantic and extended the range of external relations. As the result of international dealings due to commerce, various codes of maritime law were formed. Chief among these was the *Consolato del Mare*,[3] a collection of principles that regulated the trade of the Mediterranean. Some of its rules concerning the rights of belligerents and neutrals on the sea in time of war have stood to the present day. The Laws of Oléron[4] formed the maritime code for western Europe and the Laws of

[1] Dunning, Political Theories: Ancient and Medieval, chap. xi.

[2] Ward, Enquiry into the Foundation and History of the Law of Nations in Europe, Vol. I, pp. 155–230.

[3] Published at Barcelona in 1494; but its rules had been applied for several centuries before that time, and were probably based in part upon the Amalfitan Tables, which date to the eleventh century. See Wheaton, History of the Law of Nations, pp. 63–65.

[4] Compiled in the latter part of the twelfth century by Richard I or by his mother, Queen Eleanor.

Wisby[1] ruled the sea traffic of the Baltic nations. The Hanseatic League compiled a system of marine law[2] toward the end of the sixteenth century; and in the famous French Marine Ordinance of 1681,[3] drawn up by a commission appointed by Louis XIV of France, was issued the most comprehensive and systematic presentation of this branch of international jurisprudence.

484. Establishment of consuls. Closely connected with the development of medieval maritime law was the establishment of consuls.[4] As early as the eleventh and twelfth centuries, consular officials, chosen by the seamen or merchants of the Italian cities, settled disputes affecting their countrymen in foreign lands, and assisted by advice and information the merchants of their home states.[5] Consuls were at first sent only to Oriental countries, but during the thirteenth and fourteenth centuries the institution spread to the West. The right of choosing the consuls, at first in the hands of mercantile associations, soon passed to the government of the state to which the merchants belonged.[6] The establishment later of permanent embassies, the rise of the doctrine of territorial sovereignty, and the extension of the jurisdiction of the national courts of law destroyed the judicial functions of consuls in the more advanced states, reducing them to the position of commercial agents. In Mohammedan countries and in the Orient,[7] consuls still possess large immunities and exercise important jurisdictions, both civil and criminal, over citizens of their own states.[8]

485. Importance of territorial sovereignty in international law. Of even more importance than the maritime codes in the evolution of international law was the influence of feudalism in associating

[1] Compiled about 1288.

[2] The *Jus Hanseaticum Maritimum*, compiled in 1591 and expanded in 1614.

[3] Wheaton, History of the Law of Nations, pp. 107–161.

[4] Known at first as *consules marinariorum et mercatorum*.

[5] Halleck, International Law, Vol. I, pp. 369–370.

[6] It is said that the first consul appointed by England was to Pisa, Italy, in 1175, the government acting at the request of a British commercial organization in Pisa, which was unable to agree in the selection of one of its own members. The advantages of this practice being demonstrated, it became the custom, first for England and then for other governments, to appoint consuls to act in foreign countries. — Van Dyne, Our Foreign Service, p. 118.

[7] Except in Japan, where these privileges of consuls were abolished in 1899.

[8] Moore, International Law Digest, Vol. V, chap. xvi; Lippmann, Die Konsularjurisdiktion im Orient.

political rights with the possession of land, thus leading to the idea of territorial sovereignty.[1] The kings, standing at the apex of the feudal hierarchy, from being lords of their peoples became lords of their peoples' lands. While direct royal authority was limited during the medieval period both by the actual strength of the feudal nobility and by the belief in a common European superior, as feudalism fell into decay and the powers of emperor and pope diminished, the kings, supported by monarchical doctrines made familiar in the revived study of Roman law, finally stood forth as absolute sovereigns over the territory of separate and independent national states. The long contest between papacy and empire,[2] the controversies between the pope and the rising national monarchs, the Great Schism,[3] and, finally, the Protestant Reformation destroyed the sense of unity and divided Christendom into hostile camps. Since the bond of common religious faith was broken, the fact that a group of states in the modern sense had come into existence could not long escape observation. Few rules existed, however, to determine the proper relations among these growing and rival political units; and the kings of the period, flushed with a sense of unlimited power, were guided by self-interest alone in matters of state policy. In the early modern period, unscrupulous bad faith characterized statecraft and wars were barbarously cruel and destructive.[4]

486. Forerunners of Grotius. These conditions prepared the way, toward the close of the sixteenth century, for thinkers who asserted that there were ethical rules, or *natural law*, applicable to the intercourse of states, even though no earthly authority had power to enforce obedience.[5] Ayala, a Spanish military judge, attacked the doctrine of unregulated war and argued for a *jus naturale* and for a *jus gentium* established by common consent.[6] Gentilis, an Italian who taught at Oxford, maintained that there was a law

[1] Lawrence, Principles of International Law, pp. 26–28.

[2] Emerton, Medieval Europe, chaps. vii–x.

[3] Milman, History of Latin Christianity, Bk. XIII, chaps. i–v.

[4] On the barbarities of the wars of this period, see Lawrence, Essays on Modern International Law, No. IV.

[5] On the writers who paved the way for international law, see Figgis, From Gerson to Grotius; Nys, Le Droit de la guerre et les précurseurs de Grotius.

[6] De Jure et Officiis Bellicis, published in 1581.

of war based on reason and consent.[1] Suarez, a Spanish Jesuit, frankly recognized the separation of states, but insisted on the moral unity of mankind. He argued therefore that there must be a community of states and a law, furnished by reason and general custom, to regulate their dealings.[2] "Although every perfect state, whether a republic or a kingdom, is in itself a perfect community composed of its own members, still each such state, viewed in its relations to the human race, is in some measure a member of that universal unity. . . . For just as custom introduced law in a state, so it was possible for laws to be introduced in the whole human race by the habitual conduct of nations."

487. The work of Grotius. The development of political principles and the actual conditions of political existence made possible, therefore, the work of Grotius, the founder of the science of international law.[3] Grotius started with the universally accepted idea of natural law, based upon reason and the innate sociability of man, and claimed its sanction for the law of nations. He also borrowed many principles from the Roman *jus gentium*, a body of positive rules sanctioned by general agreement; and thus laid the basis for the modern theory, which arose after the doctrine of natural law had been proved untenable,[4] that international law derives its sanction from the common consent of nations. The fundamental conceptions of Grotius — the legal equality and the territorial sovereignty and independence of states — still form the basic principles of international jurisprudence.[5] Several reasons for the enormous influence exerted by the work of Grotius may be mentioned. In addition to his attractive style and his marvelous display of erudition, gathering instances from all history and piling precedent upon

[1] De Jure Belli Libri Tres, published in 1598.

[2] Tractatus de Legibus et Deo Legislatore, published in 1612. For translation of the most important part, see Westlake, Chapters on the Principles of International Law, chaps. xxvi–xxvii.

[3] De Jure Belli ac Pacis, published in 1625. For a good analysis, see Walker, History of the Law of Nations, sections 143–148.

[4] For a criticism of the law of nature, see Willoughby, Nature of the State, pp. 103–118; Lawrence, Principles of International Law, pp. 33–38.

[5] Note the correspondence between the theory of external sovereignty held by Grotius and the contemporary theory of internal sovereignty worked out by Bodin. See Dunning, Political Theories: From Luther to Montesquieu, chaps. iii, v.

precedent, he based his system upon doctrines accepted by the leading thinkers of his period. The law of nature, territorial sovereignty, and the principles of Roman law were approved ingredients for his constructive system. The ideas of world church, world empire, and feudal independence that he attacked were already discredited. Finally, the evils due to the absence of morality in interstate dealings and to the constant and barbarous wars led men to realize the need of a system under which principles of justice and honor might be applied to the relations among states.

488. The Peace of Westphalia. Accordingly, in the Treaty of Westphalia (1648),[1] which brought the terrible Thirty Years' War to an end, many of the principles of Grotius were applied. This treaty "ended forever both the political and spiritual aspirations after universal empire. It distinctly recognized a society of states based upon the principle of territorial sovereignty, and settled the doctrine that law goes with the land and that each territorial state is independent and possessed of jural rights which all others are bound to respect. It was thus a declaration, not only that a society of states exists, but that its members may make their appeal to law. What is most important of all perhaps is the equal recognition of all forms of government without distinction. The Venetian Oligarchy, the Dutch Republic, the Swiss Confederation, and the Hanseatic Cities were all embraced in it with the same legal rights as the proudest and most ancient monarchies, including the Holy Roman Empire.[2] Practically all the Christian states of Europe, not excepting the Grand Duchy of Muscovy, were embraced within its provisions. Only the Ottoman Empire was excluded from it."[3]

489. Permanent embassies. Other agents in the reorganization of Europe that led to the modern conception of international relations were the establishment of permanent embassies and the doctrine of the balance of power. Permanent resident embassies were unknown in ancient times. Special envoys were sent when messages

[1] Henderson, Short History of Germany, Vol. I, pp. 489–497.

[2] Of the 355 German states whose sovereignty was practically recognized, 150 were secular states governed by hereditary princes, 62 were free city states, and 123 were ecclesiastical states governed by archbishops and other church officials. — Oppenheim, International Law, Vol. I, p. 60.

[3] Hill, World Organization and the Modern State, pp. 93–94.

were to be delivered or negotiations carried on, but the first permanent diplomatic representatives in foreign states were probably established by Venice in the thirteenth century. By the fifteenth century the Italian cities had permanent representatives in France, Spain, Germany, and England; and in the sixteenth century some of the leading states of western Europe established organized embassies among themselves.[1] In spite of the convenience of this practice, the sending of diplomatic agents was compelled to win its way against a mass of suspicion caused largely by the unscrupulous nature of early diplomacy. Louis XI of France, probably the first sovereign in western Europe to send regular embassies, intended his ambassadors to act as sort of chartered spies in the courts of his neighbors; Henry VII of England would not allow ambassadors from other states to remain in his territory after their business was finished; and as late as 1660 the Diet of Poland threatened to treat the French ambassadors as spies if they did not return home.[2] Not until the period of Richelieu, Mazarin, and Louis XIV in the seventeenth century was the system of resident embassies generally established.[3]

490. The balance of power. The idea of the balance of power, or the doctrine that any state that attempted to destroy the nice adjustment of international equilibrium might be attacked by others whose relative importance would be diminished if it were allowed to carry out its projects, is not altogether modern. Ancient states frequently united to prevent the growth of a neighboring power whose preponderance threatened their independence.[4] The first modern application of the theory, however, was found during the fifteenth century in the interstate relations of the Italian cities. Later this principle was extended to the wider field of European politics. In the sixteenth century, France and England, in their policies toward the great Hapsburg Empire, recognized the value of the principle; but the balance of power, as a European system,

[1] On the struggle for precedence that formerly prevailed among the diplomatic agents of states, see Bernard, Lectures on Diplomacy, Lecture I.

[2] Ward, History of the Law of Nations, Vol. II, p. 484.

[3] Nys, Les Origines de droit international, chap. xiv; Oppenheim, International Law, Vol. I, sections 358–359.

[4] Hume, Essays Moral, Political, and Literary, No. VII.

was not definitely established until the latter part of the seventeenth century. It was first formally stated in the Peace of Utrecht (1713),[1] frequently appeared in later treaties and state papers,[2] and remained a fundamental maxim of European diplomacy until the latter part of the nineteenth century.[3]

491. The preëminence of France. During the period between the Peace of Westphalia (1648) and the Peace of Utrecht (1713), France was the leading state in Europe. Her ambitious policies under Louis XIV led to a series of wars that disturbed the balance of power until a general coalition, headed by England, checked the aggressive designs of France and restored the European equilibrium.[4] While the principles of international law as laid down by Grotius and his followers were frequently disregarded in the warfare and diplomacy of this era, certain permanent advances were made. The right of legation and the international status of ambassadors were established, and the French language gradually took the place of Latin in international intercourse.[5] The doctrine of the freedom of the high seas made considerable progress;[6] the general principles of neutral trade were laid down; rules concerning the right of visit and search, blockade, and contraband were adopted; and numerous commercial treaties indicated the growth of international intercourse.[7] During this period the writings of the great international jurists were diligently studied and widely discussed, and the spirit of men and of states became more tolerant.

[1] The object of that treaty is stated as "ad firmandam stabiliendamque pacem ac tranquillitatem christiani orbis justo potentiae equilibro."

[2] For example, in the Preamble to the old British Mutiny Act: "And whereas it is adjudged necessary by his Majesty and this present Parliament that a Body of Forces should be continued for the Safety of the United Kingdom, the Defence of the Possessions of His Majesty's Crown, and the Preservation of the Balance of Power in Europe."

[3] Dupuis, Le Principe d'équilibre, etc.; Nys, op. cit., chap. viii.

[4] Robinson and Beard, Development of Modern Europe, Vol. I, chaps. ii–iii.

[5] A result of the declining influence of the Holy Roman Empire and of the preëminence of France.

[6] Grotius, Mare Liberum (1609); Selden, Mare Clausum (1635); Bynkershoek, De Dominio Maris (1702).

[7] Concerning the conditions of maritime capture, one of the most discussed questions of this period, see Hall, Treatise on International Law, Part IV, chaps. vii, ix; Manning, Commentaries on the Law of Nations, Bk. V, chap. vi.

492. International development during the eighteenth century. In the eighteenth century, Russia was admitted to full membership in the family of nations, and Prussia grew into a power of importance.[1] Many difficult questions concerning the occupation and boundaries of territory were opened up by the colonization of the New World;[2] the American fisheries question appeared; and international regulations concerning commerce multiplied. The Peace of Paris (1763) settled many questions of territorial jurisdiction, made England the dominant state in America, and extended her power in the East.[3] On the continent the issues were dynastic, economic, and territorial. Succession to the various royal thrones was a frequent topic of international discussions;[4] the balance-of-power theory was repeatedly affirmed and disregarded; and international diplomacy was dominated by selfish and opportunistic motives. Treaties were violated, wars were undertaken on the slightest pretexts, and the most sacred rights of nations were ruthlessly disregarded. Thus Frederick the Great seized Silesia in 1740; the Pragmatic Sanction was ignored by almost all the states that agreed to it; and Poland was removed from the map of Europe by the partitions of 1772, 1793, and 1795.[5] On the other hand, some progress was made in the rules of maritime capture, the Armed Neutrality of 1780 laying down the general principle of "free ships, free goods."[6]

493. International development during the French Revolution. The American Revolution of 1776 and the French Revolution of 1789 introduced new problems and new principles. The fact that the state was a legal entity distinct from the person of its king was made clear and the ideals and methods of democracy, nationalism, and federation became valuable factors in state development. The French Revolution, starting with advanced conceptions of world peace and altruistic doctrines of the rights of men and of nations,[7]

[1] Robinson and Beard, Development of Modern Europe, Vol. I, chap. iv.

[2] The Roman law of *occupatio* was applied as the basis of territorial acquisition.

[3] Chalmers, Collection of Treaties, Vol. I, pp. 467–483.

[4] For example, the Spanish succession (1700) and the Austrian succession (1740), both of which led to general European wars.

[5] Robinson and Beard, op. cit., Vol. I, chap. v.

[6] Wheaton, History of the Law of Nations, pp. 295 ff.

[7] Anderson, Constitutions and Documents, Nos. 1–63.

soon degenerated into the aggressive conquests of Napoleon. Against his designs were formed a series of coalitions, headed by Great Britain; and to the practices of Great Britain the states of Europe turned for the principles of international law. Because of the superiority of France on land and of England on the sea, the chief rivals in the great Napoleonic struggle were for some time able to attack each other only in an indirect way, and many fundamental customs of international law, especially of maritime capture, were violated.[1] The continental system of Napoleon, as stated in his Berlin and Milan decrees of 1806 and 1807 respectively, and the retaliation of England in the British Orders in Council almost ruined neutral commerce.[2] The United States, with the largest neutral carrying trade, was the chief sufferer and became the champion of the rights of neutral commerce. The regulations in regard to neutrality set forth by the United States as early as 1793 subsequently became generally recognized.[3] Jefferson's Embargo and the American War of 1812 were by-products of the Napoleonic contest.[4]

494. The Congress of Vienna. After the downfall of Napoleon, the balance of power in Europe was again restored by the Congress of Vienna (1815).[5] While this Congress was dominated by a reactionary spirit and based its work on the principle of legitimacy, ignoring the growing forces of nationalism and democracy, it made some progress in settling international problems. "It defined the relations of ministers, envoys, and ambassadors; declared in favor of the abolition of the African slave trade; and agreed upon general principles intended to secure freedom of navigation on great international rivers, at least by coriparian states. Among the political acts of the Congress of Vienna should be particularly noted: the union of Norway and Sweden and of Belgium and Holland; the reorganization of the new Germany of thirty-nine states into

[1] Mahan, Influence of Sea Power upon the French Revolution and Empire.

[2] Manning, Law of Nations, Bk. V, chap. x. For the decrees, see University of Pennsylvania Translations and Reprints, Vol. II, No. 2.

[3] Moore, American Diplomacy, chaps. ii–iii.

[4] American Nation, Vols. XII–XIII.

[5] Rose, Revolutionary and Napoleonic Era, chap. xi; Robinson and Beard, op. cit., Vol. I, chap. xvi.

a loose confederacy; and, in general, the restoration of the old dynasties in France, Spain, Italy, and Germany."[1]

495. The Holy Alliance, the concert of Europe, and the Monroe Doctrine. The reactionary influence, of which Metternich was the leading spirit, continued during the first half of the nineteenth century, largely through the efforts of the Holy Alliance, composed of Russia, Austria, and Prussia, to suppress popular revolutions.[2] When England, and later France, joined these powers and periodical meetings were held at which the affairs of the continent were discussed and settled, the concert of Europe was established. This system replaced the old equilibrium of forces in a European community of states by the authority of a committee of the great powers, which considered it their prerogative to interfere in the affairs of the smaller states or of uncivilized peoples, and to enter upon a positive policy of concerted action.[3] The great powers, however, distinctly avowed it to be their purpose to observe strictly the principles of the law of nations.[4] When an attempt was made to extend the intervention of the Holy Alliance to America for the purpose of restoring the Spanish colonies, which had won their independence, to their former status, the United States, supported by England, objected. The Monroe Doctrine, promulgated at this time, while never formally made a part of international law, has been maintained and expanded as a fundamental principle of American international policy and has been respected on numerous occasions by other states.[5] The recognition of the independence of Spanish America added Mexico and the South American states to the family of nations. Finally, by the revolutions of 1830 and 1848, the doctrines of absolutism

[1] Hershey, Essentials of International Public Law, pp. 70–71.

[2] Seignobos, Political History of Modern Europe, chap. xxv. For the text of the Holy Alliance, see Robinson and Beard, Readings in Modern European History, Vol. I, pp. 384–385.

[3] Hazen, Europe since 1815, pp. 16–19; Hill, World Organization and the Modern State, pp. 139–141.

[4] In the Declaration of the Five Cabinets at Aix-la-Chapelle in 1818. See Hertslet, Map of Europe by Treaty, Vol. I, p. 573.

[5] Edgington, The Monroe Doctrine; Moore, International Law Digest, Vol. VI, chap. xx; Coolidge, United States as a World Power, chap. v. See, however, Bingham, The Monroe Doctrine, an Obsolete Shibboleth.

and legitimacy were overthrown, and the principles of nationality and democracy were recognized.[1]

496. The period of international conferences. The latter half of the nineteenth century was a period of frequent international congresses, and of great progress in the improvement and codification of international law and in the establishment of administrative and judicial machinery of world organization. As a result, the principle of nationality, which reached its climax in the unifications of Italy and of Germany in 1870,[2] was modified by the growth of internationalism; and the earlier emphasis on sovereignty and independence was, partially at least, replaced by the present conception of interdependence. In the Declaration of Paris, signed in 1856 after the Crimean War, Turkey was admitted to full standing in the family of nations, and epoch-making principles of maritime law concerning privateering, neutral commerce, and blockade were finally agreed upon.[3] The laws of land warfare were codified, beginning with the Instructions for the Guidance of the Armies of the United States in the Field in the Civil War,[4] being more generally adopted after the Brussels Conference (1874), and receiving their present form in the Hague Codes of 1899 and 1907.[5] The Geneva Convention of 1864, providing for the neutralization of persons and things connected with the sick and wounded of armies, was signed by practically all civilized states.[6] Since 1850 there have been held hundreds of international conferences, public and private, dealing with subjects of all sorts.[7] Many of these resulted in the establishment of permanent commissions and bureaus, and in the adoption of numerous agreements leading toward a desirable uniformity of international practice.[8]

[1] Andrews, Historical Development of Modern Europe, Vol. I, chaps. v–x.

[2] Stillman, Unification of Italy; Seignobos, Political History of Europe since 1814, pp. 451–484.

[3] Wilson and Tucker, International Law, Appendix II.

[4] Drawn up in 1863 by Dr. Francis Lieber. See Wilson and Tucker, op. cit., Appendix I.

[5] Wilson and Tucker, op. cit., Appendix V.

[6] Wilson and Tucker, op. cit., Appendix III.

[7] For a partial list, see American Journal of International Law, Vol. I, pp. 808–829.

[8] Oppenheim, International Law, Vol. I, sections 458–471, 578–591.

497. Arbitration and armaments. The international situation during the past quarter century brought into especial prominence the questions of international arbitration and limitation of armaments. International arbitration, frequently utilized during the Middle Ages, declined under the absolute monarchies of the seventeenth and eighteenth centuries, when recourse was had to war and diplomatic intrigue in order to settle international differences. After the Napoleonic wars, when conditions in Europe became more settled, international arbitration was revived.[1] This movement, in which England and the United States at first took the leading parts, became of general importance as a result of the recent Hague conferences.[2] The burden, economic, social, and moral, of enormous armaments also demanded some method for the peaceful solution of international disputes. Since the Franco-Prussian War of 1870, Europe has been an armed camp; and the recent interest in colonial imperialism and commercial expansion[3] has led to naval rivalries even more costly. For the purpose, therefore, of "seeking by means of international discussion, the most effectual means of insuring to all peoples the benefits of a real and durable peace, and above all, of putting an end to the progressive development of the present armaments," the First International Peace Conference met at The Hague in 1899 at the call of the Russian czar.[4]

498. The Hague conferences. The twenty-six states represented soon realized the impracticability of limiting military and naval preparations, but arbitration was recommended, a code of arbitral procedure was adopted, and a permanent tribunal of arbitration was established.[5] In addition, conventions regarding land and maritime warfare were adopted and several minor declarations issued.[6] Forty-four states were represented at the Second International Peace Conference in 1907. This conference was characterized

[1] The Jay Treaty of 1794 referred several questions to arbitration.

[2] Between 1899 and 1908 about 130 arbitration treaties were negotiated. For a partial list, see American Journal of International Law, Vol. II, pp. 824-826.

[3] Reinsch, World Politics, Part I.

[4] For the Rescript of August 24, 1898, see Holls, Peace Conference at The Hague, pp. 18 ff.

[5] Foster, Arbitration and the Hague Court.

[6] For full text of the conference, see Higgins, The Hague Peace Conferences.

by an increasing interest in principles of jurisprudence as affording the true foundation of international agreements. The most important results were the establishment of an international court for maritime prizes, the agreement not to collect contractual debts by force until adjudication had been obtained, or at least proposed and refused,[1] and the project for a permanent court of arbitral justice. A resolution stating the desirability of limiting military burdens was adopted and thirteen conventions and several recommendations were drawn up.[2] The failure of the Second Hague Conference to reconcile differences of opinion regarding maritime law and procedure led Great Britain to call a conference of the leading maritime powers, which met at London in the winter of 1908–1909. An unexpected consensus of opinion resulted, and the Declaration of London, a code of seventy-one Articles, containing important provisions relating to the law of blockade, contraband, and other phases of the rights of neutrals and belligerents with respect to neutral commerce, was drawn up.[3] This declaration was agreed to by the delegates of the ten leading powers represented at the conference, and the adhesion of states not represented was invited.

499. Contributions of the United States to international law. The United States, largely on account of its isolation, which made it possible to regard principle because less influenced by policy, has contributed largely to the progress of international law during the past century.[4] The United States has advocated advanced principles regarding the immunities and obligations of neutrals, freedom of commerce and navigation, and the open-door policy in the Far East.[5] It has taken the lead in establishing laws of war on land and sea, and has cordially supported arbitration as a means

[1] On the Drago Doctrine, around which this question centered, see Hershey, "The Calvo and Drago Doctrines," in American Journal of International Law, Vol. I, pp. 692–726.

[2] For full text of the second conference, see Scott, The Two Hague Conferences, Vol. II.

[3] Bentwick, The Declaration of London; Stowell, "The International Naval Conference and the Declaration of London," in American Political Science Review, November, 1909.

[4] Wilson and Tucker, International Law, pp. 27–31.

[5] Latané, America as a World Power (American Nation, Vol. XXV), chap. vi.

of peaceful settlement of international disputes. While its policies have not always been consistent nor disinterested when its own welfare was affected,[1] it has in general taken a liberal and progressive position upon international questions; and its attitude has had increasing weight in the councils of nations as its power has grown and as its traditional policy of exclusiveness, as crystallized in the Monroe Doctrine, has necessarily been modified by its present importance in world politics.

II. Forms of Union among States

500. Unions among states. One of the most confusing results of international intercourse has been the establishment of forms of union or relations of dependence among states, ranging all the way from simple alliances or vague spheres of influence, where the external independence of the states concerned is restricted in only the slightest degree and no common government is created, to federations, where the former states lose their sovereignty and become component members in a new state. Since a logical classification of these political forms is difficult,[2] and their effects on the nature of the states concerned and on the modern theory of sovereignty are in much dispute, only a brief description of the various forms and a general statement of the leading problems involved will be attempted.

501. Alliances. The simplest form of union among states is that created by a treaty of alliance.[3] In this case the states retain full control of their own internal affairs and, without creating any permanent common organ, agree to act jointly for some specific purpose. Such concerted action as is necessary is had through

[1] For example, in Chinese exclusion, in the Bering Sea controversy, and in the Panama tolls.

[2] Perhaps the most important discussion of this topic is found in Jellinek, Die Lehre von den Staatenverbindungen. A suggestive classification is that of Crane in The State in Constitutional and International Law, pp. 75–78.

[3] Every international treaty provides for the regulation of certain common interests, and in a sense places certain formal limits upon the complete sovereignty of the states involved. Absolute external independence among a community of states having dealings one with another is as impossible as full natural rights among a group of individuals living in a state of nature.

governmental organs of the individual states, and no juristic union or fusion of the contracting states is intended. Alliances may be temporary, may be brought into operation only in case certain contingencies arise, or may be permanent, in which case the states form a sort of league. Such agreements are usually formed for purposes of common aggression or defense. Examples in history are numerous, notably the alliances among the Greek cities in ancient times, among the Italian and the German cities in medieval times, and the Holy Alliance, the Triple Alliance, and many others among modern states.

502. International administrative unions. A further step is taken when combinations of states are formed by treaty agreements or by international conferences for the common regulation of particular interests, for which purposes permanent administrative authorities are created. Many such *international administrative unions* have been formed in recent years.[1] The commission for the regulation of navigation upon the Danube, established by the Congress of Paris in 1856, but given its present form in 1883, practically forms a distinct international person, having the power of prescribing and enforcing penalties for the violation of its regulations.[2] Other examples are "the Universal Postal Union, established by thirty states in 1878, after the successful experiment by twenty-one states begun four years earlier, and now augmented to sixty members, covering practically the whole civilized world, with congresses every five years, and a permanent central office at Berne; the Universal Telegraphic Union, established in 1868, comprising thirty states, also with a permanent central office; the Union for Railway Transportation, established in 1890, of which the chief European states are members; the Union for the Protection of Industrial Property, established in 1883; that for the Protection of Works of Literature and Art, formed in 1886; and the Union for the Publication of Customs Tariffs, formed in 1890."[3] As a result of the actions of these international conferences and commissions, a body of laws and regulations, to which the name

[1] Reinsch, Public International Unions.
[2] Moore, International Law Digest, Vol. I, pp. 630–631.
[3] Hill, World Organization and the Modern State, p. 127.

of *international administrative law* is applied and which is administered by international commissions and by national agencies, is gradually being formed.[1]

503. ***Personalunions.*** When two or more states are temporarily united under the same ruler, a *personalunion* is formed.[2] Each state retains its own sovereignty and remains a distinct and separate subject of international law.[3] Each of the associated states remains entirely independent of the others, having its own constitution and laws, its own political organization, citizenship, and local institutions. The common ruler legally possesses as many political personalities as there are states under his rule, and may possess widely different powers in each. Accidents of descent may cause such unions, and differences in the laws of inheritance in the states concerned may bring them to an end. Historic examples were the union of Spain and the Holy Roman Empire under Charles V, of Great Britain and Hanover from 1714 to 1837, and of Holland and Luxemburg from 1815 to 1890. The annexation of the Congo Free State by Belgium in 1908 destroyed the last existing union of this type.

504. ***Realunions.*** When two or more states, otherwise sovereign and independent, are permanently united under the same dynasty, so that they form a single person in international relations, a *realunion* is formed.[4] Each member of the union retains its territorial integrity, its own constitution, and its internal sovereignty. But a common ministry or joint councils assist the monarch, usually in questions of war and peace, foreign affairs, army and navy, and finances.[5] Until 1905 Norway and Sweden formed a realunion. Austria-Hungary is the only surviving example. In this state, besides the common monarch, there are common ministries for foreign affairs, war, and finance, and the rudiments of a common legislature.[6]

[1] Reinsch, "International Unions and their Administration," in American Journal of International Law, Vol. III.

[2] Juraschek, Personal- und Realunion; Rivier, Principes du droit des gens, Vol. I, pp. 93–97. [3] Jellinek, Die Lehre von den Staatenverbindungen, p. 212.

[4] Le Fur und Posener, Bundesstaat und Staatenbund, section 73; Moore, International Law Digest, Vol. I, section 9.

[5] Garner, Introduction to Political Science, pp. 139–142.

[6] On the government of the Dual Monarchy, see Wilson, The State, pp. 333–363; Ogg, Governments of Europe, chaps. xxiv–xxvii, xxxi.

505. Confederations. The *confederation* is a permanent union of states joined by a compact or treaty for purposes of common defense and general welfare.[1] The union has governmental organs and functions of its own, especially for the conduct of foreign affairs, but each component state retains its sovereignty and independence and its personality in international law. The usual organ of common government consists of a diet, or congress, of delegates from the states forming the union. This body exercises such powers as are delegated to it by agreement among the states, and in its decisions the vote of each state is usually cast as a unit. This central congress does not ordinarily deal with the individuals of the several states, but with the states directly; and its resolutions are usually inoperative until adopted by the governments of the separate states and given the force of law within their jurisdictions.[2]

506. Historical importance of confederations. This form of union has been of great historic importance in political evolution. The first steps toward political integration among states that are too nearly equal in strength to permit of expansion through conquest, and that, in spite of common interests, wish to retain their separate identities and oppose complete amalgamation may be best taken by means of confederation. The confederacy is evidently a temporary form of government and usually results in a growing spirit of unity in consequence of which a single state is formed. It is, of course, possible for the states in confederation to destroy the common government and remain entirely separate. At present no good example of a confederacy exists, although the United Netherlands from 1580 to 1795, the United States from 1781 to 1789, the Swiss Confederacy before 1798 and from 1815 to 1848, and the Germanic Confederation from 1815 to 1866 were forms of this political type.[3] In all these cases the union of states was later transformed into a single sovereign state and, except for the United Netherlands, the resultant state took the federal form of organization, the former independent states retaining their territorial bases and their governments and reappearing as legislative,

[1] Hart, Introduction to Federal Government, chaps. i–iv; Jellinek, op. cit., pp. 172–194.

[2] Garner, op. cit., pp. 142–145.

[3] Garner, op. cit., pp. 145–148.

administrative, and judicial districts with certain inherent and nondelegated powers within their own spheres in the new state.

507. Federations. In the *federation*, governmental authority is fundamentally distributed between a central organization and a number of commonwealth organizations, each being supreme in its own field and none having the right to interfere with or destroy the others.[1] The federal union, however, is not a union among states, but a single, sovereign and independent state, enjoying complete international personality, the relations between the union and the parts being a question of constitutional rather than of international law.[2]

508. Dependent states. Many writers do not consider sovereignty an essential element of the state for international purposes, and they therefore classify as part-sovereign or dependent states those communities that, dependent to a greater or less extent upon other states, more often in the conduct of their foreign relations, but sometimes in their internal affairs as well, nevertheless retain considerable powers of self-government and a certain degree of international personality.[3] Relations of this kind are necessarily vague, difficult to maintain, and usually end in the absorption or the independence of the subordinate members. No general rules for these anomalous political forms can be laid down, the degree of autonomy and the international status of each depending upon the particular circumstances of each case.

509. Semisovereign states. The members of federal states, while they seldom possess international personality, are sometimes considered semisovereign states[4] because of their distinct constitutional organization and their large powers of internal jurisdiction. The weight of authority is against this point of view. Vassal states, or states under suzerainty, are portions of states that, during a process of gradual disruption, secure certain of the powers of an independent community.[5] In theory, the vassal community has

[1] See above, Chapter VI, sections 232–251.

[2] Willoughby, Nature of the State, pp. 238–275.

[3] Hershey, Essentials of International Public Law, pp. 105–114.

[4] The members of the German Empire possess limited rights of legation and treaty making. See Howard, The German Empire, chap. ii; Ogg, Governments of Europe, pp. 205–209.

[5] Nys, Le Droit international, Vol. I, pp. 357–364.

such rights only as are conferred upon it by the paramount state. In actual practice it is often well-nigh independent of its suzerain. The terms *suzerain* and *vassal* were originally used to describe the relations of feudalism, and were applied to the medieval connection between the Holy Roman Empire and the German principalities. The terms were revived during the past century and applied to such relations as those of the Balkan States to Turkey before they became entirely independent. For example, Bulgaria, which declared its complete independence in 1908, was made a tributary and autonomous principality under the suzerainty of Turkey by the Treaty of Berlin in 1898. Egypt, the main surviving example, is nominally under the suzerainty of Turkey, but its administration is actually under the control of Great Britain, and its real position is that of a protectorate.[1]

510. International protectorates. An *international protectorate* exists where a weak or inferior state has, through treaty or otherwise, been placed under the protection of a more powerful state for the sake of greater safety or because it was virtually forced into such a position.[2] The modern protectorate is ostensibly established for the benefit of the weaker state, but is frequently employed as a means of exploitation and disguised conquest. Protected states retain all rights and privileges not expressly yielded, as well as a certain international capacity. The protecting state is internationally responsible for the conduct of the protected state, and this gives a right of intervention in internal as well as in external affairs, which reduces the protectorate to a position of considerable dependence. Great Britain exercised a protectorate over the Ionian Islands from 1815 to 1863, and over the Transvaal from 1881 to 1902. Madagascar was a French protectorate previous to its annexation as a colony in 1896; and Korea was a protectorate of Japan from 1904 until it was annexed in 1910. At present the chief international protectorates are those of Great Britain over Egypt and Zanzibar, of France over Tunis and Morocco, and of

[1] Lowell, Government of England, Vol. II, pp. 428–429; Rose, Development of the European Nations, Vol. II, pp. 143–227.

[2] Hershey, op. cit., pp. 107–110; Despagnet, Essai sur les protectorats; Rivier, Principes de droit des gens, Vol. I, pp. 79–93.

the United States over Cuba.[1] In a slightly different situation are the protected states of Panama[2] and the San Marino Republic.[3]

511. Colonial protectorates: spheres of influence. *Colonial protectorates* are formed when a state, while not definitely claiming sovereignty over a certain area occupied by uncivilized peoples standing outside the rules of international law, at least aims to exclude other states from action within such territory.[4] Such a protectorate affords a means of preparing the way for annexation without incurring the burdens of government and the international responsibilities involved in real occupation. A certain responsibility for the maintenance of order is, however, incurred.[5] Large parts of Africa and certain sections of Asia have been partitioned among the leading states by this process.[6] A further application of this form of international expansion in recent years has led to the establishment of *spheres of influence.* These are based upon agreements either among the great powers, which promise to respect the primary interests of one another within certain specified areas, or between a great power and a weaker state, in which the latter promises not to grant concessions to any other state within an area where the great power claims certain privileges.[7] A still more vague and undefined condition exists in certain parts of the world where the great powers are interested because their citizens have large financial or commercial interests, or where the territory is considered of strategic importance to national welfare or to future expansion. The relation of the United States to Latin America, especially to Mexico and Central America;[8] of Germany to parts

[1] Moore, International Law Digest, Vol. VI, pp. 56–239; Coolidge, United States as a World Power, pp. 124–130, 285–289.

[2] Latané, America as a World Power (American Nation, Vol. XXV), chap. xii; Foreign Relations of the United States, 1904, pp. 543 ff.; Coolidge, op. cit., chap. xv.

[3] This is under the "exclusive protective friendship" of Italy.

[4] Reinsch, Colonial Government, chap. viii.

[5] Macdonell, "International Law and Subject Races," in Spiller, Interracial Problems, pp. 398–409.

[6] Keltie, Partition of Africa; Reinsch, World Politics, Part II.

[7] Westlake, International Law, Vol. I, pp. 119–140; Reinsch, Colonial Government, chap. vii.

[8] Coolidge, op. cit., chap. xvi; Latané, op. cit., chap. xv; Proceedings of the American Political Science Association, Vol. IV, pp. 28–48; Vol. VIII, pp. 152–172.

of Asia Minor and of South America;[1] and of Russia to the Balkan States[2] may be taken as examples.

512. Neutralized states. A state whose independence and territorial integrity are guaranteed and which is forbidden, by the joint action of other states, to engage in offensive war is called a *neutralized state*.[3] In return it is usually guaranteed immunity from attack. In all other respects save the waging of aggressive warfare or the negotiating of treaties that might lead to hostilities, the neutralized state is fully sovereign and independent. The purpose of neutralization has been to maintain the balance of power and the peace of Europe by setting apart as buffer areas small states so situated geographically that they are a temptation to aggression on the part of their rival neighbors,[4] or that they are in danger of having their neutrality disregarded by the opposing belligerents in case of war. Whether permanently neutralized states remain fully qualified members of the community of states is a much-disputed point.[5] Malta was declared neutral by France and England in the Treaty of Amiens in 1802, but that treaty never went into effect. The neutrality of the city of Cracow was guaranteed by Austria, Prussia, and Russia in 1815, but that city was annexed by Austria in 1846. The Congo Free State was partially neutralized in 1885, but was annexed in 1908 by the also neutralized state of Belgium. The existing neutralized states are Switzerland, since 1815; Belgium, since 1831; Luxemburg, since 1867; and probably Norway, since 1907.[6]

513. Relativity of external sovereignty. This analysis of the effects of international relations upon the separate existence and independence of states shows that external sovereignty cannot be understood in an absolute or unrestricted sense.[7] In actual practice

[1] Reinsch, World Politics, pp. 273–286; Coolidge, op. cit., pp. 205–212; Colquhoun, Greater America, pp. 399–409.

[2] Duggan, "The Balkan Problem," in Political Science Quarterly, March, 1913, pp. 95–122.

[3] Nys, Études de droit international public et de droit politique, Vol. II, pp. 47–163. [4] Semple, Influences of Geographic Environment, p. 130.

[5] Tswettcoff, De la situation juridique des états neutralisés.

[6] Wicker, Neutralization; Garner, Introduction to Political Science, pp. 163–164.

[7] Crane, "The State in Constitutional and International Law," chaps. iv, vi, in Johns Hopkins University Studies, Series XXV, Nos. 6–7.

it is very much limited and wholly relative. Although states must possess a certain degree of autonomy and independence in order to possess an international status, the interdependence and international solidarity of modern states must also be considered. On its external side sovereignty may be formally limited by the rules, principles, and customs of international law, by treaty agreements, by certain delegations of sovereignty and international servitudes,[1] and by relations of suzerainty and vassalage or protection and dependence that are supposed not to be in derogation of sovereignty.[2] If, however, a state "parts with its rights of negotiation and treaty, and loses its essential attributes of independence, it can no longer be regarded as a sovereign state, or as a member of the great family of nations."[3] The determination of the exact point at which a degree of independence has been secured sufficient to form a state, or a degree of independence has been lost sufficient to destroy a state, is one of the most difficult problems in both theoretical and practical politics.

III. Conclusions

514. Interrelation among all phases of international dealings. The preceding brief summary of the development of international relations, especially along the major lines of commerce, warfare, and diplomacy, brings out the complexity and contradictions of the process and at the same time suggests several lines of continuous and progressive evolution. Each element of interstate dealings, taken singly, has, under varying conditions, led to widely divergent results. The establishment of commercial relations among states has, for example, been a powerful influence toward peace and a frequent cause of war. Commercial intercourse leads to the investment of capital in developing resources or building up transportation, regardless often of political boundaries, and creates a community of interests among states that not only opposes the destruction that accompanies war but removes many of the causes that lead to war. On the other hand, rivalries for markets or for

[1] Oppenheim, International Law, Vol. I, sections 203–208.
[2] Hershey, Essentials of International Public Law, pp. 99–101.
[3] Halleck, International Law, Vol. I, p. 69.

sources of food supply and of raw material have always been prime causes of strife.[1] Commercial relations may lead to political integration, as, for example, the Prussian *Zollvercin* paved the way for the German Empire;[2] on the contrary, divergent commercial interests between different parts of a state may lead to rebellion or even independence, as in the establishment of the United Netherlands and of the United States. The commercial relations of states that are complementary or noncompeting may establish strong international friendships, as in the case of England and Portugal during the eighteenth and nineteenth centuries; while conflicting commercial interests between states whose needs are similar may cause international hostility, as in the case of England and Germany at the present day.

515. Relativity of commercial policies. Bounties, subsidies, free trade, reciprocity, and tariff barriers represent various attitudes of states toward trade, depending upon conditions within the states concerned. The theories that underlie the commercial policies of a given state at a given time are usually based upon practical considerations of national policy. Thus, free trade is the natural policy for the state with most advanced economic and industrial conditions. Such a state, able to undersell its competitors, desires free access to all markets. It also wishes to purchase raw materials and food for its laborers from the cheapest and best available sources of supply. England was in this position a century ago, after her Industrial Revolution.[3] A state with poor resources or with undeveloped industries needs protection against rivals with whom it cannot compete. This was the position a century ago of the United States.[4] At present, England feels the competition of Germany and the United States, and seriously considers the advisability of a protective tariff; the United States at present approaches the position of England in the nineteenth century, and logically expects to benefit by a material reduction in her tariff. As long as the world is composed of separate and independent states, each interested in

[1] Reinsch, Colonial Government, pp. 57–94.
[2] Henderson, Short History of Germany, Vol. II, p. 340.
[3] Seager, Introduction to Economics, pp. 12–19.
[4] Bogart, Economic History of the United States, chap. xi.

its own economic and commercial advantage, protection and free trade will be relative terms, depending upon the conditions obtaining within each state and in the community of states, and having important political as well as economic bearings.[1]

516. Various results of warfare. Warfare also produces contradictory results in interstate relations. By the very nature of war-like operations, commercial dealings are interfered with or prevented during the continuance of hostilities, even the foreign trade of non-combatants coming under a special status of neutrality when a war of importance is being waged. A war, therefore, often acts like a high tariff in stimulating internal industry and tends to make states self-supporting. Thus the Napoleonic wars caused Jefferson's Embargo, and the War of 1812 stimulated manufacturing in the United States.[2] On the other hand, when the war is over, especially if territory has been transferred, population and commerce tend to flow into the conquered region. The merchant treads close upon the heels of the conqueror, and commerce very often "follows the flag." Wars may combine states into larger units, either by subordinating the conquered to the conqueror, as in the formation of the empires of Rome and Great Britain, or by creating a spirit of unity among states fighting against a common foe, as in the case of Switzerland, the American colonies, and to a degree the German Empire. In the former case, the compulsory union will usually create a centralized, unitary state; in the latter case, voluntary union may result in federation, the former states retaining large powers of self-government in the new union. Wars may divide states or shatter them into fragments, as in the breaking up of the great world empires or in the establishment of former colonies as independent states.

517. General international tendencies. Side by side with these paradoxes in the evolution of interstate relations, several broad and fairly consistent tendencies may be traced. International intercourse has gradually been extended over more and more of the earth's surface until to-day only the remote corners are of no value in commerce, have escaped the grasp of the conqueror, and are

[1] Seligman, Principles of Economics, pp. 513–516.

[2] Coman, Industrial History of the United States, chap. vi.

outside the influence of international law. While the political units or states included within this expanding field have sometimes been large and sometimes small, sometimes few and sometimes many, at least a constantly increasing number of individuals and an expanding area of territory have been brought under orderly governmental regulation and into relations of some sort, peaceful or hostile, with their neighbors. This process shows in general a tendency to subordinate war and to develop peaceful commercial and diplomatic relations. A body of rules, more extensive, more definite, and more universally observed, has gradually arisen to regulate interstate dealings; and the legal organization of world law and of world administration has, especially in recent years, made remarkable progress.

518. Irregular nature of process. However, this process has not been uniformly progressive. The organization of peace, accomplished after centuries of effort, has been overthrown by the need of applying it to less advanced peoples, by the rise of new conditions or the decadence of old institutions. Thus the *pax Romana* was followed by the constant warfare of feudalism after the barbarian invasions; the rise of the Mohammedan religion and the establishment of the Mohammedan Empire led to a long series of religious wars, as did the Protestant Reformation later; and the formation of national states was accompanied by renewed wars on a larger international scale. Similarly, the growth of commerce has been checked by warfare, by destruction of the means of exchange or communication, by danger from robbers or pirates, or by decline in the standards of living. Thus the barbarian invasions destroyed much of the trade of the Roman world and led to the isolated, self-supporting, rural life of the medieval manor.[1] Similarly, the Turks, by closing the medieval trade routes to the Orient, compelled trade to seek new channels, shifted the centers of commerce, and caused the decline of formerly prosperous communities.

519. Conclusion. The evolution of interstate relations, as is the case with all social evolution, has followed an involved and intricate channel; and as soon as its problems are apparently solved, a number of new conditions, caused in part by the supposed

[1] Cheyney, Industrial and Social History of England, chap. ii.

solutions, arise, demanding new adjustments and new compromises. The foreign relations of states create changes in the internal affairs of the states, and these in turn react upon foreign policy.[1] For example, the increasing power of the national government and of the national executive in the United States is partly a result of the growing importance of the United States in foreign affairs, and in turn strengthens its position in world politics by giving it a more effective machinery for carrying on international relations.[2] The problems of the composition of the state, of its internal governmental organization, and of its proper functions are inextricably mingled with the problems of interstate relations; and changes taking place in each unavoidably create new difficulties in all the others.

[1] Morris, "Some Effects of Outlying Dependencies upon the People of the United States," in Proceedings of the American Political Science Association, Vol. III, pp. 194–209.

[2] Reinsch, World Politics, pp. 327–355.

CHAPTER XII

THE PURPOSE OF THE STATE

520. Nature of problem. In final analysis, all problems concerning the proper organization and functions of the state are dependent upon the answer to the question: What is the proper end or purpose of the state? It would seem that rulers and statesmen, in determining upon lines of policy or action, should have in mind a clear conception of the reasons for which the state exists; otherwise their purposes will show inconsistencies and often defeat themselves. The history of political evolution shows, however, that men engaged in practical government seldom set before themselves clear ideas of the ultimate purposes of the state, their actions necessarily being more or less opportunistic, or else aiming at certain definite results, to the achievement of which the authority of the state is applicable. The aims of the state are essentially relative. "What the state should aim at now is likely to be quite different from what it either did or could aim at in ancient Rome, or Sparta, or Persia, or India."[1] Moreover, considerable disagreement exists even among political philosophers who have deliberately set themselves to an examination of the proper sphere of the state. Accordingly, the following chapter will be devoted, first, to a brief statement of some of the more important theories that have been propounded concerning the ends of the state. Then, an analysis will be attempted of the theory that meets with most general acceptance at present, for the purpose of showing its connection with the fundamental relations of the state, of pointing out some of the complexities involved in any statement of state functions, and of emphasizing the essential contradictions and the need for compromise in dealing with this problem as with most problems of political development.

[1] Seeley, Introduction to Political Science, p. 39.

I. Theories as to the Ends of the State

521. Theory of state purpose in ancient world. In the ancient world, when political speculation was just beginning, the state was generally considered as an end in itself, rather than as a means to the realization of an end. The idea of individual interests as distinct from the general interests of society did not exist. In the Oriental empires and among the Hebrews the individual was completely subordinated to the control of the state, even the minutest details of daily life being regulated by the customs or laws enforced by the idea of divine sanction as well as by public authority. Tradition and usage reigned supreme, demanding unthinking submission to fixed customs in every particular of life, social, political, and religious. Under such a régime no discussion of the proper sphere of the state was possible and no system of individual rights ever made its appearance. The individual existed for the state, not the state for the individual.[1]

522. Theory of state purpose among the Greeks. The Greeks also considered the state an end in itself, and its interests superior to those of its individuals.[2] Because of their belief that their gods represented principles of right and reason, and that law was derived from abstract conceptions of order and justice existing in nature, the Oriental feeling of subjection to an external power or to a mysterious fate was replaced by possibilities of individual freedom. Such individual freedom, however, was regarded only as a part of national freedom, and received no protection if it opposed the welfare of the state. The state, being necessary for man's highest welfare, was regarded as the product of nature; man was, by nature, a political animal. "The state was not conceived of as having an existence outside of, or independent of, the lives of the citizens, much less as ever having interests contrary to theirs. Rather, it was regarded as a living social whole, in whose life each individual participated, and in and through whose glories and perfections he was able to employ his faculties, to develop his inherent powers, and to satisfy his highest spiritual desires. . . . As

[1] Willoughby, Political Theories of the Ancient World, chap. ii.
[2] Dunning, Political Theories: Ancient and Medieval, chaps. i–iii.

thus conceived, a political existence, as the highest possible form of human life, came to have in the eyes of the Greeks an absolute value. Instead of being viewed as a mechanism, the state was regarded as a living organic whole. To it was ascribed, in effect if not in theory, an existence and interests of its own. It became indeed in their thought a sort of universal person absorbing in its life all individual personalities. Thus to them it appeared in many ways to have a higher and more perfect individuality and personality than did its citizens, for from its personality and from its life the citizen was supposed to derive all that was valuable to him as a man."[1]

523. Theory of state purpose among the Romans. Beginning with the Romans, a distinction was made between the rights of the individual and of the state. The Romans gradually built up their system of private law on the principle that each individual possessed a number of legal rights, that these rights made up his legal personality, and that it was the duty of the state to define and protect these rights. The basis was thus laid for a conception of civic freedom and equality. The individual and the state were separated, and while the interests of the state were first considered, and the citizen expected to make every sacrifice for the public welfare, yet the state did not swallow up the whole life of the individual, its actual interference in private affairs leaving to the citizen a considerable sphere of freedom.[2]

524. Rise of modern theory of state purpose. With the growth of individualism in medieval and modern times, due largely to the influence of Christianity and the institutions of the Teutons, the theory that the state is an end in itself gradually disappeared.[3] In fact, the theorists of the latter eighteenth and early nineteenth centuries went to the other extreme and argued that government and law are necessary evils and that the proper purpose of the state is merely to protect the natural liberty of its individuals.[4] The keeping of order, the protecting of property, and the enforcing of contracts were considered the only proper aims for the state.

[1] Willoughby, op. cit., pp. 55–56.
[2] Willoughby, op. cit., pp. 215–218; Dunning, op. cit., chap. iv.
[3] Wilson, The State, pp. 583–586.
[4] Mill, On Liberty; Spencer, The Man *versus* the State.

Some writers, however, among whom Bluntschli may be mentioned, still hold that the state is both an end and a means. "On the one hand it is a means for the advantage of the individuals who compose it. From another point of view it has an end in itself, and for its sake the individuals are subordinate and bound to serve it. The one-sided view of the ancients, which overlooked the individual in the nation, seriously endangered his liberty and his welfare, and led up directly to the conception of the omnipotence, which easily degenerated into the tyranny, of the state. The equally one-sided view of the modern, which is unable to see the wood for the trees, fails to recognize the majesty of the state, and thus tends to dissolve it into a confused mob of individuals and to encourage anarchy."[1] While the state, if considered as an institution distinct and apart from the citizens that compose it, and as having no relations with them except as members of the body politic, may be considered an end in itself,[2] modern political thought views the state rather as an institution or means through which the ends of individuals in association may be realized, acknowledging also that government and law do not merely exercise negative authority over individuals, but that they render essential and important services for them.[3]

525. Statement of modern theory. The modern theory, in its more general aspects of the ends for which society exists, is stated by Giddings as follows: "The immediate results of efficient social organization are certain general conditions of well-being, in which all members of the community share, or may share if they like, and which, though external to the individual personality, are yet necessary to its perfection and happiness. They include the security of life and of possessions, which is maintained by the political system; the liberty and the justice, which are maintained by the legal system; the economic opportunity and material well-being, which are created and maintained by the economic system; cultural opportunity, knowledge, and fearlessness, created and maintained by the cultural system. . . . Life itself is the ultimate social end,

[1] Bluntschli, Theory of the State, p. 307.
[2] Willoughby, Nature of the State, pp. 316–318.
[3] Garner, Introduction to Political Science, pp. 311–312, 320–329.

but not life irrespective of form or quality. It is life in its higher developments, especially its moral and intellectual developments, that society creates and perfects. . . . This social personality — the moral, intellectual, and social man, the highest product of evolution — is the ultimate end of social organization." [1]

526. Broad generalizations in modern theory. Numerous recent writers have attempted formulations of the ends of the state, in some cases in statements so broad and general that, while no great fault can be found with them, they throw little light on the real reasons for state existence. Of such nature are the statements that the purpose of the state is to maintain "justice" or promote "general welfare," to make possible "the realization of the best life by the individual," [2] or to secure "the good of mankind." [3] Distinction is made sometimes between the ends of the state in general and those of a particular state, the former being "the highest conceivable purposes that may be subserved by the state's existence"; the latter being "the aims of a given state that are practicably attainable under given objective conditions." [4] Other writers distinguish between the ideal and the real ends of the state, and most political philosophers separate the ultimate ends of the state from those that are immediate or proximate.[5]

527. General similarity in modern theories. The following statements, showing essential similarity, may be taken as fairly representative of the best modern thinking. Holtzendorff considered the real ends of the state to be: first, the development of the national power; second, the maintenance of individual liberty; and, third, the promotion of the social progress and civilization of the people.[6] Bluntschli considered the direct end of the state to consist in the development of the national capacities and the perfecting of the national life. The indirect ends consisted in the maintenance of individual freedom and security.[7] Burgess classifies the ends of the state as primary, secondary, and ultimate, and

[1] Giddings, Descriptive and Historical Sociology, pp. 522–523.
[2] Ritchie, Principles of State Interference, p. 102.
[3] Locke, Two Treatises of Government, section 229.
[4] Willoughby, op. cit., p. 309. [5] Garner, op. cit., p. 313, note.
[6] Principien der Politik, chaps. vii–viii.
[7] Theory of the State, Bk. V, chap. iv.

states their historical order as: "first, the organization of government and liberty, so as to give the highest possible power to the government consistent with the highest possible freedom in the individual; to the end, secondly, that the national genius of the different states may be developed and perfected and made objective in customs, laws, and institutions; from the standpoints furnished by which, finally, the world's civilization may be surveyed upon all sides, mapped out, traversed, made known and realized."[1] Villey, a recent French writer, says: "The end of the state is first of all the maintenance of the national independence from without and the social order within; then the development and perfection of the national life, in a word, progress."[2] Willoughby makes the following analysis of governmental functions, as regards their aims: "first, those concerned with the power of the state, . . . namely, those that concern the maintenance of order and the preservation of the state's political autonomy in the family of nations. . . . The second aim of the state is, or should be, that of creating and maintaining the widest possible degree of liberty. . . . Thirdly, and finally, there are those functions of the state that, apart from any considerations of power or maintenance of individual liberty, tend by their exercise to promote the general welfare, either economically, intellectually, or morally."[3] Lilly, speaking specifically of the modern state, says: "Obviously, the first function of the state is to maintain, in a condition of the utmost efficiency, such fleets and armies, and other preparations for war, as its security against rival states demands. . . . Equally obvious is its function to maintain its internal tranquillity by its magistrates and police. . . . Again, the right of the state, as we have seen, is not merely to existence, but to a complete existence, noble and worthy existence, an existence in accordance with the dignity of human nature. Hence, among its functions must be reckoned the promotion of civilization."[4] Garner, in his recent book, adds the following: "The original, primary, and immediate end of the state is the

[1] Political Science and Constitutional Law, Vol. I, p. 89.
[2] Le Rôle de l'état dans l'ordre économique, p. 18.
[3] Nature of the State, pp. 344–345.
[4] First Principles of Politics, pp. 54–55.

maintenance of peace, order, security, and justice among the individuals who compose it. . . . Secondly, the state must look beyond the needs of the individual as such to the larger collective needs of society — the welfare of the group. . . . Finally, the promotion of the civilization of mankind at large may be considered the ultimate and highest end of the state." [1]

528. Elements in the problem. The preceding statements exhibit essential agreement in pointing out the fact that the interests of individuals, of the state as a unit, and of the civilization of the world as a whole must be considered. They also agree in the proposition that general welfare is the final aim of the state. Burgess, in addition, points out the historical order in which these ends have been and must be sought, and the fact that each end becomes, in turn, a means for the accomplishment of the succeeding end.[2] On the other hand, little effort has been made to show the relations of these ends, one to another, or to point out the difficulties involved in keeping all of them in view or of properly subordinating the lesser to the greater. Emphasis on any one — on the welfare of individual, state, or world in general — places considerable strain upon the others, and at any advanced stage of political evolution, more or less adjustment and compromise among them is demanded. Further analysis of these aims is therefore needed. All questions concerning the proper end or purpose of the state must center around the fundamental political relations, — those of state to individual, and of state to state, — in other words, around the internal and external phases of state existence and activity. There are, therefore, three units to be considered: the individual, the state, and the collection of states that comprises the world as a whole. The welfare of each of these units must be kept in mind, and their interests may not always be identical. The authority to determine the relative importance of these interests lies, not in the individual or in the combination of states, but in each state separately. This authority is, of course, largely influenced by the demands of the individuals included in the state, and by the pressure of international conditions and relations.

[1] Introduction to Political Science, pp. 316–317.

[2] Political Science and Constitutional Law, Vol. I, Bk. II, chap. iv.

529. General tendencies. In general, states have, up to the present time, subordinated the welfare of the world at large to that of their citizens and to the needs of their own existence. National rivalries have been stronger than international unity. Within the state there has been considerable difference of opinion as to the relative importance of the individual and of the state, sometimes resulting in a paternal despotism or a socialistic commune, when the welfare of the state has been chiefly emphasized; sometimes resulting in an unregulated individualism, tending toward anarchy, when the individual man, rather than the social group, has been given first place. Obviously, in the majority of cases, the interests of individual, state, and civilization in general are closely interrelated. What promotes the welfare of the average man will ordinarily be for the advantage of his state, and of the community of states. However, this is not always the case; and the relative weight given to these various interests determines largely the attitude and policy of each state as to its proper sphere of action.

II. The Interests of Individual, State, and Civilization

530. Relations among individuals. Before the state in the proper political sense of the term could be said to exist, the relation of individuals, one to another, and of all to the common authority, had to be determined. This, then, was the primary purpose of the state, and it still remains its chief function.[1] The adjustment of sovereignty to liberty, the maintenance of order and security, the establishment of a government and of a sphere of individual freedom, — these first demanded attention, and their chief object was to reconcile the conflicting interests of individuals, to make possible a peaceful and organized social existence, and to secure safety from external danger. Such a process was, indeed, one of the first steps out of barbarism, and it was in the beginning unconscious and undirected.

531. Need for authority and discipline in early states. To accomplish this purpose, chief emphasis was laid on authority and obedience. The quantity of government was more important than

[1] Burgess, Political Science and Constitutional Law, Vol. I, pp. 86–87.

its quality.[1] The sanction of custom and religion was added to physical force and to such public opinion as then existed. Primitive man had first to acquire discipline and subordination; the whole power of the state was exercised by the government; and individual freedom was impossible, because unsafe. Despotic government, in compelling men to obedient and concerted action; war, in compressing men into nations; and slavery, in overcoming the indolence, inertia, and lack of application inherent among primitive natures, played a useful and perhaps essential part in the development of civilization.[2] In those times, when mankind was unaccustomed to order and obedience, and when the relations among communities were those of unregulated warfare, political and civil rights were overshadowed by the necessity of strengthening the power of the state against its unruly members and against its external foes. Hence the theory naturally arose that considered the state to be an end in itself. No part of the life of the individual was free from its interference or authority; every detail of his conduct was minutely regulated, and no conception of individual interests, except as they contributed to general interests, was possible. Such was the theory of the state that prevailed among the ancient Hebrews, Greeks, and Romans, and, to a greater or less degree, it has accompanied the rise of political life wherever found.[3]

532. Beginnings of individual liberty. This condition, however, if permanent, leads to stagnation.[4] After its end has been accomplished, that is, after the disposition to obey law and observe order has been established, it must be modified before further progress can take place. A certain sphere of free action must then be allowed to the individual. When men are able to live and work together in a well-developed social organization, the earlier compressive legal forces become colossal evils and must be removed if stagnation is to be avoided. The state must mark out a field, narrow at first, but widening as political intelligence grows, within which it guarantees the individual against interference at the hands not only of other individuals but also of the government. Within

[1] Bagehot, Physics and Politics, pp. 25–30.
[2] Parsons, Legal Doctrine and Social Progress, pp. 98–102.
[3] Esmein, Droit constitutionnel, p. 377. [4] Bagehot, op. cit., chap. vi.

this field individuals or nonpolitical associations of individuals are to be unmolested, though they may be aided, by the state. This process includes also such perfection of the governmental machinery that a considerable proportion of the state's population may share in the exercise of political power, and such a direction of the activities of the state that its citizens may become progressively more capable of exercising this freedom.[1]

533. Adjustment of authority and liberty. The creation, then, of the respective spheres of authority and liberty, their adjustment from time to time, as conditions change, the organization of government to create and administer the will of the state within the field of authority, the determination of the political privileges and the civil rights of its citizens, — these form the primary ends of the state and must be accomplished in order that there may be a state, in order that men may live peaceful and orderly and safe lives in organized association. It is often good policy for the state, not only to protect the liberty of its citizens, but to aid them in work that they could not otherwise accomplish, or to authorize the government itself to undertake such enterprises. As states pass from barbarism to civilization, their duty becomes broader than that of merely safeguarding life and liberty, and includes the development of the wealth and well-being, morality, and intelligence of their members.[2] To establish a reign of law and of justice, and to secure real liberty, requires more than mere negative regulation. It often involves active and varied intervention by the state in the social and economic affairs of its people, especially for the purposes of removing the surviving traces of injustice and inequality that were necessary accompaniments of state origin.[3]

534. Development of the state as a unit. When this primary purpose of the state is in a fair way toward realization, a secondary end becomes important. During the process of establishing government and liberty, of maintaining order and justice, the state becomes conscious of its own existence. It realizes its own unity

[1] Willoughby, Nature of the State, p. 345.

[2] Leroy-Beaulieu, The Modern State, chap. v.

[3] Burgess, Political Science and Constitutional Law, Vol. I, pp. 87–88; Laveleye, Gouvernement dans la démocratie, Vol. I, p. 19; Kelly, Government or Human Evolution: Justice, Bk. III, chap. iii.

and sets to work to perpetuate and strengthen its own life. This necessitates certain activities both within the state and without. The state must perfect its internal unity and must safeguard its external independence. To this end efforts will be made to secure definite and natural territorial frontiers, to surround the state on all sides with natural barriers, — mountains or the sea, — and to strengthen its exposed frontiers, if it is unable to conquer the adjacent territory, by fortifications and garrisons, or by treaty agreements with its neighbors. Efforts will also be made to perfect the ethnic homogeneity of its people. Aliens will be excluded from political privileges, regulations will be set up against promiscuous immigration, and efforts will be made to secure uniformity of race, language, and religion, to develop a feeling of national solidarity. Other states will be watched with a jealous eye lest they grow too wealthy or too powerful. Tariff barriers will be established, and balance-of-power theories will arise.

535. Perfection of national genius. The secondary aim of the state becomes, therefore, by this process, the perfection of its own national life.[1] Instead of acting only as an arbiter to maintain peace and security, the state takes a more active part in promoting the common welfare. No rights of the individual are allowed to stand in the way of this purpose. The needs of the state may demand the sacrifice of the citizen. If the existence of the state is threatened, the lives of all its members are at its disposal and may be freely spent in war. In times of national crises the spirit of self-sacrifice that leads men voluntarily to undertake heavy burdens or to risk their lives can only be explained on the assumption that men place the safety and welfare of their state ahead of their own, and that the collective life of the nation has a higher value than the lives of many individuals.[2] The state, through taxation, may deprive the individual of his property, to be used as public purposes may demand. Very often the state, for its own preservation or for the sake of future generations, makes heavy demands upon its present members.[3]

[1] Hill, World Organization and the Modern State, pp. 57–76.

[2] Bluntschli, Theory of the State, p. 308.

[3] For example, heavy taxation caused by war or by extensive and permanent internal improvements.

536. Expansion of state activities. Again, the needs of public welfare may call for extraordinary aid from the state. Whatever cannot be done efficiently or economically by private individuals or associations, or whatever affects the public welfare, may be regulated or managed by the state. Tariffs and subsidies may build up one interest or section and destroy another. "In the German states, where most railroads are owned and managed by the government, rates and fares have been fixed with a view . . . to protecting German industries against foreign competition, to aid in the exportation of German productions, to strengthen the efficiency of the military forces of the state, and to further numerous philanthropic and educational aims."[1] Evidently the purpose aimed at in this process is the establishment of well-organized, powerful states, each determining the relation of sovereignty to liberty in its own organization from the standpoint of both individual and state needs, and each determining its relation to other states from the standpoint chiefly of its own safety and aggrandizement. The resultant national states are the most satisfactory political organizations that the world has yet seen, and the development of the national capacities is, therefore, a legitimate end in state existence.

537. Rise of internationalism. However, this process leads to a third, and what may be considered the final, purpose of the state, — a process just beginning. The relations arising among states, at first largely hostile in nature, lead in time to mutual understandings and interests. An international public opinion develops, commercial relations and means of communication and intercourse bind the whole civilized world into a unity. Intermarriage and migration break down ethnic differences. Improved means of transportation diminish the influence of natural barriers, religious toleration arises, and imitation creates a civilization fairly uniform over a large part of the earth. Under these conditions the interests of the world as a whole loom large and receive consideration, even when they conflict with the interests of its component political units. Altruism, in addition to egotism, becomes a national as well as an individual virtue.[2] "A well-organized state is the result

[1] Johnson, American Railway Transportation, p. 292.
[2] McKechnie, The State and the Individual, chap. xi.

of the determination to protect the rights of person and property by just laws. When this has been accomplished within the state, it is easy for a community to fix its attention upon the solidarity of its own interests, as against the rest of the world, and to overlook the rights of other communities. This is merely a sign of imperfect development; which, however, need not be permanent. But at this stage of growth, nations usually pass through a period when they think of themselves as entirely distinct entities, without bonds of common interest and obligation uniting them with other nations; just as young children often centre their thoughts entirely upon their own immediate desires, until their moral sense is awakened. Savage tribes continue, under arrested development, permanently to exist upon this lower level, living in a state of perpetual isolation and instinctive hostility to one another; but in the process of civilization communities gradually extend their sense of social solidarity beyond their borders, until it embraces others of like kind.... We of course perceive, when we stop to think of it, that there is the same reason for establishing perfect justice between different nations as between different men of the same nation." [1]

538. Increasing world unity. This attitude is as yet only imperfectly realized, but many indications point to its further extension. International understanding and sympathy, international agreements, conferences, and organizations, and the expansion of international law and adjudication illustrate this tendency. The formation of colonial empires, composed of divergent and scattered parts, is breaking down the geographic and ethnic unity upon which the modern national states are based. The efforts of states to educate and civilize inferior peoples and to aid worthy projects, wherever found, show a feeling of responsibility and duty regardless of political boundaries; and some things, for example, science, literature, and art, scientific technique and industrial efficiency, are little affected by the separation of mankind into distinct governmental units. One of the most striking of the newer political developments is the internationalism of capital. "In order that natural forces may be utilized to their fullest extent, it is necessary that technical management and power may be readily transferred

[1] Hill, World Organization and the Modern State, pp. 59–60.

to any place where it is needed. Capital is controlled by the law of the highest returns. It therefore instinctively and consciously seeks to coöperate with the forces of nature; its returns are most ample where nature herself has created the proper conditions. From this point of view, it is necessary that the entire earth should be opened to industrial enterprise, that the capital and energy of any nation should be free to engage in the development of natural resources wherever found, and should be safe in undertaking such development. The web and woof of financial power, human energy, industrial enterprise, human labor, and natural resources are making real that possibility of universal interdependence which the technical advance of the world has promised for some time." [1]

539. Ultimate aim of the state. The final aim of the state would thus be the furthering of the civilization and progress of the world; [2] and the logical result in political organization would be a world state or a world federation. In this process the present states might, of course, sacrifice their own existence; they would certainly lose much of their external independence. Just as the perfection of national life demands the subordination of the individual, so the perfection of international life demands the subordination of the state. Modern states have not yet reached the point where they are willing to sacrifice their national independence and identity, and considerable difference of opinion exists as to the relative advantages and disadvantages that would result if it were accomplished. Self-conscious national units, as nuclei of human force and ideals developed by long historical struggles, are still valuable in protecting and furthering human progress. Just as the relation of state to individual gave rise to numerous difficulties, now fairly well adjusted, yet by no means finally or unanimously settled, so the relation of state to state creates problems whose solution is far from being in sight. The relative value of individual, state, and civilization in general, and the proper adjustment of each to secure the best net results, — these are the questions upon whose answer depends the proper statement of the end and purpose of the state.

[1] Reinsch, "Influence of Geographic, Economic, and Political Conditions," in Spiller, Interracial Problems, p. 54.

[2] McKechnie, The State and the Individual, chap. iii.

III. Conclusions

540. Summary. Judging by past historical development and by present conditions and tendencies, the ends of the state may be summarized as follows:

1. *The advancement of the welfare of the individual.* This is accomplished by the establishment of government and law, by the creation of a domain of individual freedom, by the maintenance of peace, order, and justice, and by state action for the purpose of promoting economic, intellectual, and moral well-being. The total authority to be exercised by government, with the correlative sphere of individual liberty, and the proper share of the individual in governing authority are the chief questions demanding adjustment.

2. *The advancement of the welfare of the state*, that is, of individuals in their collective national capacity. This involves the relation both of the state to its citizens and of the state to other states, and may at some points conflict with the first aim, — the welfare of the individual. The end sought is the strength, stability, independence, and progress of the state, considered as an organized unit.

3. *The advancement of the welfare of civilization at large*, that is, of mankind in its broadest social capacity. This involves purposes of a universal character and demands the proper adjustment of the needs of society with the interests of separate states and of single individuals, all of which may sometimes be divergent. "There would seem, then, to be no objection to making the full development of the national self the ultimate end of the state's existence, provided that a true, full, and sufficiently noble conception is formed of what that self includes. The truth must be clearly grasped, that in its nature are included intimate relations both to the other states and to its own individual subjects. The national self is an organic member of the wider whole of humanity, and is itself the smaller organism of which each citizen is part. In this view, self-realization may be taken as comprising the whole duty of a state, just as it is that of an individual. . . . The end of the state is thus seen to be the present welfare and future perfection of all the citizens considered as an integral portion of humanity."[1]

[1] McKechnie, op. cit., pp. 86, 88.

541. Historical order of state ends. The end to which a state, at any given time, should chiefly direct its efforts depends, of course, upon the point that has been reached in its development. No state is in a position to extend its national influences and authority until it has set its own house in order and arranged satisfactorily its own organization and its relations to its component individuals. Neither can a state further the progress of civilization beyond its own boundaries until it has developed its peculiar national genius. These aims show a historical order as well as a development of philosophical conception; and the existence, side by side, of states with various points of view as to their main purposes, due to the stage of their political developments, further complicates the already great difficulties in the way of a general consensus of political purpose.

542. Interrelation among state ends. Moreover, these ends are closely interrelated and very delicately balanced. Each succeeding end is based upon the one that preceded it, which, when accomplished, becomes the means by which the following end is secured. That is, the establishment of authority and of liberty serves as the basis for the development of political unity and solidarity, and this in turn lays the foundation for the progress of civilization in general. At the same time, each succeeding purpose lays a strain upon the preceding stage, which weakens or threatens to destroy it. The exercise of authority by the state is by its very nature a limitation upon the freedom of action of its members; and when the interests of the two conflict, the problem resolves itself into the proper adjustment between them. The strengthening of national solidarity and power threatens individual liberty, and often results in a military or bureaucratic despotism. No state can turn its attention to foreign affairs and play an important part in world politics without withdrawing attention correspondingly from internal affairs, with resultant dangers of political corruption or unsolved domestic problems.[1] No state can shoulder the burden of elevating an inferior people without placing this burden upon its own citizens.[2] No state can promote the cause of civilization without diminishing the intensity of its own patriotism and national

[1] Reinsch, World Politics, pp. 347–356. [2] Reid, Problems of Expansion.

spirit. Hence, consideration must be given, not only to the proper means of attaining each of these ends, considered separately, but also to the proper shifting of emphasis from one to the other, each of which is valuable and necessary, and to the modifications that must be made in each so that the others may, at the right time, be brought into evidence.

543. Conclusion. The purpose of the modern state, accordingly, includes a more or less composite aim at securing order and justice for its citizens, providing for its own continued and developing existence, and promoting the progress of the world at large. The proper adjustment among these and the proper means of securing each of them open up important questions concerning state function. On this point modern theory ranges all the way from an extreme individualism that views the state as a necessary evil, whose activities must be limited to the narrowest scope, to an extreme socialism that considers desirable the extension of state function to include the whole field of human activity.[1] Between these extremes are found all shades of opinion, much of this disagreement resulting from a confusion as to what are the proper ends or purposes of the state or, when these ends are more or less clearly realized, as to their relative importance and the proper order in which they should be attempted. As to the relations among states, less difference of opinion exists. Among civilized states, at least, the point has been reached where they can safely subordinate much of their isolated self-interest to broader international relations and to the advancement of world progress as a whole.

[1] See above, Chapter IX.

CHAPTER XIII

PRESENT POLITICAL CONDITIONS AND TENDENCIES

544. Leading tendencies in present political evolution. Two phases of political evolution exhibit at present the most interesting features and present the most difficult problems. The first, representing one side of the internal life of the state, is characterized by the development of popular control of government. The growth of democracy, the creation of devices of government that aim to render public opinion more effective, to prevent its worst excesses, and to secure efficient and vigorous administration; and the extension of the functions of government, especially in the direction of securing further economic equality, since religious, social, legal, and political equality have in large measure been secured, — these are the most obvious tendencies in the organization and functions of authority within the state. The second, resulting from the external relations among states, exhibits the contradictory tendencies of the growth of internationalism and world unity on the one side and the intensification of national spirit and national rivalries on the other. The same influences that widen popular control within the state tend to expand the area of world politics, democracy and its extensive activities being closely connected with both the growing interdependence of world civilization and the national solidarity of separate states.

I. Organization of Authority within the State

545. Popular control over legislation and administration. The enactment of wise laws and their effective administration are the proper functions of government. How far the organization and activities of modern states give promise of properly performing these functions may in some degree be determined by observing certain present political tendencies. The most striking feature in the recent internal development of states has been the extension of popular control over government.[1] "Ever since the rise of

[1] Brown, The New Democracy; Ramsey, Socialism and Government.

popular education in the last century and its vast development since have assured a thinking weight to the masses of the people everywhere, the advance of democratic opinion and the spread of democratic institutions have been most marked and most significant." [1] By widening the suffrage, a share in political power has been extended to a considerable proportion of the state's population; by popular control of parties, nominations, and elections, the selection of governmental officials has been brought under democratic influence; by weakening the power of lawmaking bodies that are not popularly chosen, by popular control of representatives already selected, and by direct popular legislation, the people share more extensively in expressing the will of the state. In administration, while popular control is being extended, especially in those states retaining most traces of past monarchic and feudal organization, efficiency, trained ability, and scientific methods are receiving chief emphasis in the more democratic states.[2]

546. Widening of the suffrage. The widening of the suffrage is still taking place and will probably continue. Each step in democratic progress leads to a further one, the masses gaining strength with each concession and increasing their demands accordingly. The party in power is tempted to broaden the franchise for the popular support thus secured, and when the suffrage is once broadened its subsequent restriction seems almost impossible. In political laboratories, such as Finland and Australasia,[3] practically universal suffrage exists. In states possessing extensive manhood suffrage, such as England[4] and the United States,[5] the woman-suffrage movement is gaining strength.[6] In continental Europe,

[1] Wilson, The State, p. 581.

[2] On advantages and disadvantages of democracy, see Garner, Introduction to Political Science, pp. 219–230, and authorities there cited.

[3] Parsons, Story of New Zealand.

[4] Electoral reform looking to the abolition of the plural vote and the separate representation of the universities, as well as to the simplification of registration and of residence qualifications, is under serious consideration in England. About 525,000 men in England are entitled to more than one vote, some possessing the necessary qualifications in fifteen or twenty constituencies. See King and Raffety, Our Electoral System: the Demand for Reform.

[5] For a discussion of the existing restrictions upon the suffrage in the United States, see Dealey, "Trend of Recent Constitutional Changes," in Proceedings of the American Political Science Association, Vol. VIII, pp. 56–60.

[6] Mason, Story of the Woman's Suffrage Movement.

efforts are being made to remove the surviving feudal restrictions upon the electorate and to secure equal suffrage for all classes. Electoral reform is a vital issue in Prussian politics, the government thus far, in spite of popular demonstration and the efforts of the radical parties, preventing direct and equal suffrage.[1] In France, electoral reform has been the paramount issue in internal politics since the separation of church and state in 1905.[2] In Belgium, however, electoral reform has recently been secured, the Socialists and Liberals, united in opposition to the plural vote, securing the adoption of their principle of *un homme, un vote*.[3]

547. Expanding powers of the electorate. The widening of the electorate in numbers has been accompanied by a parallel extension of its powers. Locke believed[4] that liberty could be maintained only by reserving to the people the right of revolution against a despotic government. Rousseau taught[5] that popular freedom could be secured only by retaining sovereignty in the whole people and by making the government its agent. At present Locke's right of revolution is applied in the form of periodic elections by which the people maintain or remove the government in power. In addition, the people, through the expansion of direct popular legislation, are adopting a form of the Rousseauan doctrine and are reducing the government more and more to the position of an administrative agent, subject to the direct control of the electorate.

548. Increasing governmental importance of political parties. In those states in which popular government in its modern form first developed, political parties arose as organizations through which the electorate could express and carry out its policies and could manage its nominations[6] and elections.[7] As the chief point

[1] Ogg, Governments of Europe, pp. 260–263; Matter, "La Réforme électorale en Prusse," in Annales des sciences politiques, September, 1910.

[2] Garner, "Electoral Reform in France," in American Political Science Review, Vol. VII, No. 4, pp. 610–638.

[3] Ogg, op. cit., pp. 539–548; Barthélemy, L'Organisation du suffrage et l'expérience belge.

[4] Two Treatises of Government, Bk. II, chap. xix.

[5] Social Contract, Bk. III.

[6] Dallinger, Nominations for Elective Office, Parts I–II.

[7] Ostrogorski, Democracy and the Party System, chaps. i–x; Macy, Party Organization and Machinery, pp. ix–xvii, 15–24; Lowell, Government of England, Vol. I, chap. xxiv.

of contact between people and government, the parties exercised large powers; and in some cases, through machine organization and boss rule, they practically nullified the democratic system which they were intended to promote.[1] Popular control of political parties, therefore, became essential to political democracy, and considerable progress has recently been made in that direction. Political parties, arising as voluntary associations of individuals, have come under increasing legal regulation and are now a recognized part of the governmental system in the more advanced states.[2]

549. Popular control of nominations and elections. In order that the people may control the choice of their elected officials and representatives, popular nomination is demanded. By means of laws controlling the party caucus and convention, and by direct primaries, the people are enabled to select their own candidates.[3] By means of laws against corrupt practices,[4] compelling publicity of party finances and preventing campaign contributions from office-holders[5] and from corporations, the alliance between dishonest business and corrupt politics is weakened.[6] In these ways the political party is being democratized. By means of similar laws controlling elections, securing a secret ballot, an honest vote, and a fair count, elections also are being brought under popular control,[7] and the intimidation or bribery of voters is correspondingly reduced.[8]

550. Antipopular tendencies in government. Absolutely democratic selection of representatives is still prevented by gerrymandered electoral districts,[9] by indirect elections, and by nonrepresentation of minorities, or in some cases even of majorities.[10] In many states,

[1] Ostrogorski, op. cit., chaps. xi–xii; Steffens, Struggle for Self Government; Dallinger, op. cit., Part III; Woodburn, Political Parties and Party Problems in the United States, chaps. xiv, xvi–xvii.

[2] Beard, American Government and Politics, pp. 672–705.

[3] Merriam, Primary Elections; Woodburn, op. cit., chap. xx.

[4] Lowrie, Corrupt Practices at Elections.

[5] Woodburn, op. cit., chap. xviii.

[6] Jones, Readings on Parties and Elections, pp. 302–319.

[7] Jones, op. cit., pp. 212–225; Allen, "Ballot Laws and their Workings," in Political Science Quarterly, Vol. XXI, No. 1.

[8] Ostrogorski, op. cit., chaps. xiv–xvi; Dallinger, op. cit., Part IV; Woodburn, op. cit., chap. xv.

[9] Ogg, op. cit., pp. 223–224; Woodburn, op. cit., chap. xix.

[10] Commons, Proportional Representation.

especially in continental Europe, the selection of governmental officials is still largely outside popular control. Even in the United States, because of the desire for efficient government, simplicity of elections, and concentration of responsibility, a marked tendency in opposition to the frequent election of large numbers of candidates is indicated by the growing popularity of the short ballot movement,[1] the commission form of government in cities,[2] and the civil service reform,[3] with its principles of competitive examination, appointment, and permanent tenure.

551. Popular control over governmental officials. The problem of controlling candidates after election is more difficult. Representatives act under compulsory instructions in few legislative bodies.[4] The generally accepted theory of modern representation is that each delegate represents the people of the entire nation and should exercise his own best judgment on the questions at issue.[5] Short terms and frequent elections compel officials to consider the wishes of their constituents if they desire reëlection, but this method has serious disadvantages. An intelligent public opinion and means for its expression is often effective. A new solution is the recall.[6] This device, useful perhaps during a period of political transition or as a potential threat against suspected representatives, is opposed to present tendencies toward a permanent, trained administration, and will scarcely be needed if present tendencies toward direct legislation continue.

552. Conflicting tendencies. Movements in modern democracies are often contradictory. While some influences are at work bringing the political party under legal control and making it a useful part of the democratic system, other influences tend to weaken the

[1] Childs, Short Ballot Principles.

[2] Bradford, Commission Government in American Cities; Woodruff (editor), City Government by Commission.

[3] Fish, Civil Service and the Patronage.

[4] An exception is the German *Bundesrath*, but its members represent the governments of the commonwealths from which they are sent, not the people. Some attempt has been made by state legislatures to instruct United States senators. See Lieber, Political Ethics, Vol. II, pp. 324–362.

[5] Mill, Representative Government, chaps. xii–xiii; Laveleye, Gouvernement dans la démocratie, Vol. II, Bk. VIII, chap. xiv.

[6] Jones, Readings on Parties and Elections, pp. 351–354; Munro, Government of American Cities, pp. 350–356, and authorities there cited.

party and destroy its main functions.[1] Similarly, while the representative system is being democratized and made more effective, it is also being displaced by a direct democracy in which the people themselves propose and enact legislation.

553. Initiative and referendum: advantages. Direct popular legislation is made possible by the devices of the referendum, which enables the people to veto undesired legislation, and of the initiative, which enables the people to enact desired legislation.[2] These give a final appeal from the people's representatives to the people themselves and, in comparison with representative government, have certain advantages and disadvantages.[3] They enable the people to vote for measures as well as for men, and to vote separately on a large number of issues, instead of giving a rough verdict in favor of one party, many of whose policies may be unacceptable. They enable the people to force action upon apathetic legislatures or to prevent legislation that does not represent the wishes of the community; and in local areas they enable the people to adapt general laws to the needs of particular localities. They also may serve to check corruption, to give the people a larger measure of political control, and to make possible an extensive campaign of political education, awakening public sentiment and interest in government by giving the people questions of importance to consider and to decide.

554. Initiative and referendum: disadvantages. On the other hand, direct legislation has decided limitations. It wearies the voters if used too freely, experience showing that the electorate takes little interest in the greater number of questions submitted, and that the results tend to be conservative, the people usually rejecting new proposals, especially if the expenditure of money be involved.[4] It is, indeed, almost impossible to frame complicated statutes concerning

[1] For example, the movement in favor of nomination by petition.

[2] Oberholtzer, Referendum in America; Beard and Schultz, Documents on the Initiative, Referendum, and Recall.

[3] Lobinger, "Objections to Direct Legislation examined," in Arena, Vol. XXXIV, pp. 234–240; Beard, Readings in American Government and Politics, pp. 419–431.

[4] For the working of the initiative and referendum in Switzerland and in the United States, see Lowell, Public Opinion and Popular Government, chaps. xi–xv, and Appendix.

economic or social questions in such a way that a simple affirmative or negative vote will indicate the real will of the people. The referendum destroys the sense of responsibility of legislatures and executives. Unwise laws are often passed by weak-kneed legislators in the expectation that popular vote will destroy them. The advantages of having laws framed by a group of men specially selected and trained are thus lost; and able men, losing initiative and self-esteem, are tempted to withdraw from offices in which they have ceased to be representatives possessing personal opinions and have become mere delegates, checked and thwarted by every current of popular sentiment and prejudice.

555. General tendency toward democracy in legislation. Whatever may be the respective merits of representative and direct democracy,[1] or whatever compromise between the two may be established in modern states,[2] the fact remains that present political methods tend to obtain a fairly accurate expression of general will[3] and to afford some assurance that such general will is an intelligent one.[4] The democratization of lawmaking and the extension of political education work toward such ends. Means are provided for a wide interest in political affairs by public education, by the press, and by the campaigns of the political parties, the enjoyment of political privileges by the people furnishing the most effective means of further education. In these respects the popularly organized governments of to-day show a vast superiority over the autocratically organized systems that controlled human action during the greater part of political history. In spite of many survivals of the older systems and in spite of the opposition of rulers and statesmen who have no confidence in the political ability of the masses,

[1] Oberholtzer, Referendum in America, chap. xvi.

[2] Roschen, Politik, pp. 308–454.

[3] Cooley, Social Organization, chaps. xii–xiii.

[4] Governments now recognize that the common people are intelligent creatures worthy and capable of indefinite intellectual improvement. In past centuries rulers regarded their subjects principally as taxpayers, laborers, and soldiers; but education has now been declared an indispensable part of the advancement of public welfare, — the avowed aim of all modern governments. The success of democratic experiments depends upon the intelligence of the average citizen; the competition for markets requires skilled workmen and managers; and the widening interests of mankind demand the means of acquiring knowledge. — Robinson and Beard, Development of Modern Europe, Vol. II, pp. 380–381.

the trend among all civilized peoples is toward the more effective legal expression of general will and the increasing responsibility of political officials to popular control.

556. Weakness of democracy in administration. In obtaining a proper and efficient administration of the general will so formulated, the popularly organized government is less effective. Democracy is inherently weak in administration. The forces of public opinion are critical, analytical, and destructive, rather than directive and constructive.[1] The people as a whole cannot form clear-cut, comprehensive policies nor carry on with consistent vigor and skill the complex activities of the modern state.[2] "The governments which have been remarkable in history for sustained mental ability and vigor in the conduct of affairs have generally been aristocratic."[3] Bureaucratic government, in spite of its obvious dangers, has at least the merit of producing a corps of expert administrators, public service forming a career which a man follows through life. From the purely administrative standpoint, benevolent despotism offers the highest possibilities of excellence. In a democracy, permanence of tenure is unnatural. The people dread the loss of their freedom and of their power under permanent officials. Equality is insisted upon in a democracy, and results in the idea of giving many men a part in public affairs. In order that men may govern themselves offices are thrown open to all aspirants, and short terms, with infrequent reëlections, or choice by lot seems the simplest method of securing popular control. Democracy, by emphasizing diffusion rather than distinction, leads to mediocrity in statesmanship.[4] In Athens every free citizen was considered fit to occupy any civic position; the executive offices were usually collegiate and many were filled by lot. This system, which worked fairly well when Athens was a simple community, broke down under the strain of the increasing complexity of public interests, and could not compete with the more effective organization of monarchic Macedon. In republican Rome also the principle of rotation in office was applied, although the class from which public

[1] Wilson, An Old Master and Other Essays, pp. 112, 130.

[2] See however Smythe, Constructive Democracy.

[3] Mill, Representative Government, chap. vi. See also Montesquieu, Spirit of the Laws, Bk. III, chap. iv.

[4] Cooley, op. cit., chap xv.

officials were chosen was narrower than in Greece. As long as Rome was a simple Italian city, the lack of trained experts was not felt, but the democratic administration broke down under the burdens accompanying expansion; and efficiency was restored only by creating the permanent bureaucracy of the empire. Democracies in the past were small or short-lived.

557. Need of efficiency in administration. Modern democracies, arising in the belief that representation would successfully accomplish the formerly impossible task of working democracy over large areas, are awakening to the fact that, however satisfactory in legislation, popular government is weak in administration.[1] Hence, in those states that departed furthest from the systems of the national monarchies, a decided reaction in favor of permanent political experts in the executive departments of government is apparent.[2] A realization of the value of training for public service as a permanent profession is replacing the former blind confidence in the inherent wisdom of popularly selected officials, and expert advice in governmental matters is increasingly requested and followed. The complexity of present political civilization and the enlarging sphere of governmental action are added reasons for this development. The problem of modern democracies[3] is to combine with their broad legislative machinery based on an intelligent general will a corps of efficient, permanent, and public-spirited administrators, keeping the latter responsible to the former without destroying the effectiveness of either.[4]

558. Popular legislation and efficient administration. A broad generalization, then, regarding present tendencies in the internal organization of states shows a movement toward increasing democratic control of lawmaking, secured both by direct popular legislation and by direct popular selection of lawmaking representatives, and a movement toward increasing efficiency in administration,

[1] Freund, "American Administrative Law," in Political Science Quarterly, Vol. IX, No. 3.

[2] Lowell, "Expert Administration in Popular Government," in American Political Science Review, Vol. VII, No. 1, pp. 45–62.

[3] Godkin, Problems of Modern Democracy.

[4] Willoughby, Nature of the State, pp. 430–435; Ford, Rise and Growth of American Politics, chap. xxviii.

secured by the permanent tenure of a corps of trained experts in the various departments of government and by the application of scientific knowledge and methods to the questions with which government is concerned.[1] The former confidence in representative legislative bodies is somewhat declining.[2] On the one hand, commissions of experts are being created to deal with problems requiring more specific knowledge than a large body of legislators is likely to possess; on the other, the people are extending their authority over the field of legislation. "The principle of expert administration in modern governments is balanced by that of public discussion in parliaments. The danger of bureaucratic narrowness, which may be present even in men guided by scientific judgment, is met by calling upon the public in general to participate in state affairs, to make known its opinions, and to select representatives who will constitute a great inquest of the nation. Thus there is supplied a corrective of administrative decisions and a motive power which gives original strength and energy to the acts of government."[3] Public opinion and expert knowledge must constantly coöperate and compromise in efficient democratic government.

559. Dangers of democracy. In conclusion, several of the chief dangers confronting modern democracies may be pointed out. The attainment of political democracy leads inevitably to the demand for social and economic equality.[4] "Equality in political rights, along with great inequalities in social conditions, has laid bare the social question, which is no longer concealed, as it formerly was, behind the struggle for equality before the law and for equality in political rights."[5] Accordingly, whatever tends to separate the community into distinct classes of rich and poor, to emphasize class conflict, to make possible the selfish tyranny of either a minority or a majority, is fatal to democracy. At the same time, any attempt on the part of the people, when political power rests in their possession, to secure by state action material

[1] Lowell, Public Opinion and Popular Government, chaps. xvii–xix.

[2] Godkin, Unforeseen Tendencies of Democracy, pp. 96–144.

[3] Reinsch, "Influence of Geographic, Economic, and Political Conditions," in Spiller, Interracial Problems, p. 56.

[4] Laveleye, Gouvernement dans la démocratie, Bk. VI, chaps. v–vii.

[5] Ritchie, Natural Rights, p. 258.

equality before intelligence and morality are sufficiently widespread is equally fatal to justice and individual liberty.[1]

560. Industrial and social program of democracy. The industrial and social program of a people who have attained political democracy are stated by a thoughtful student of modern conditions as follows: "The industrial goal of the democracy is the socialization of industry. It is the attainment by the people of the highest possible industrial control and of the largest possible industrial dividend. . . . With a government ownership of some industries, with a government regulation of others, with publicity for all, to the extent that publicity is socially desirable, with an enlarged power of the community in industry, and with an increased appropriation by the community of the increasing social surplus and of the growing unearned increment, the progressive socialization of industry will take place. To accomplish these ends the democracy will rely upon the trade union, the association of consumers, and other industrial agencies. It will, above all, rely upon the state. . . . The social goal of the democracy is the advancement and improvement of the people through a democratization of the advantages and opportunities of life. This goal is to be attained through a conservation of life and health, a democratization of education, a socialization of consumption, a raising of the lowest elements of the population to the level of the mass."[2]

II. Relations among States

561. Growth of international interests. The most obvious tendency in the relation of states to each other is the increasing internationality of interests that accompanies present political evolution.[3] Organic relations, world-wide in scope, unite peoples in all parts of the earth. World unity is superseding the effects of geographic

[1] As examples, in widely separated fields, of efforts tending to enforce some degree of equality and to destroy natural differences may be mentioned the activities of labor unions, the theories of socialism, and the principles of international arbitration. All of these have both desirable features and dangerous extremes.

[2] Weyl, The New Democracy, pp. 276, 297, 320. See also Smith, Spirit of American Government, chap. xv.

[3] Willoughby, Nature of the State, pp. 404–406; Driault, Le Monde actuel.

isolation, of economic exclusiveness, and to some extent of political nationalism.[1] Upon the economic side, improved means of transportation and communication have hastened this movement.[2] Distance has been annihilated and the most remote lands have become next-door neighbors. Prices of staple commodities depend now upon world supply and world consumption. The money market is affected by the financial conditions of each state. International labor congresses represent the expansion of industrial organization beyond state boundaries, and numerous economic interests are regulated by international administrative commissions. The technical and scientific processes employed in industry and commerce are also standardized upon a uniform basis. Upon the ethical, intellectual, and social side, world unity is progressing, because a broader understanding of national peculiarities is removing former prejudices and because of the growing humanitarianism of the age.[3] Excepting language, almost all the elements that make up the life of civilized nations, industry, commerce, science, arts, manners, and political customs, have become common to all nations.[4]

562. Growth of international agreements. From the more purely political standpoint, international relations have already become definite and numerous. The society of states is now much wider than the European Christendom within which interstate relationships originated, and includes practically all the habitable parts of the globe.[5] Over this area the generally accepted principles of international conduct form a considerable body of procedure.[6] The sovereigns of Europe, in the Declaration of Aix-la-Chapelle in 1818, agreed "never to depart, either among themselves or in their relations with other states, from the most strict observance of the principles of the law of nations." In the Hague Conferences,

[1] Reinsch, "Influence of Geographic, Economic, and Political Conditions," in Spiller, Interracial Problems, pp. 49–57.

[2] Hazen, Europe since 1815, pp. 723–726; Day, History of Commerce, chaps. xxx–xxxi.

[3] Maurenbrecher, Moral and Social Tasks of World Politics.

[4] Seignobos, History of Contemporary Civilization, pp. 443–446.

[5] Lawrence, International Problems and Hague Conferences, chaps. i–iii.

[6] Hershey, Essentials of International Public Law, pp. 1–24; de Martens, Traité de droit international, Vol. I, pp. 45–52.

all states declared their intention to establish "the principles of equity and right upon which repose the security of states and the welfare of peoples." These rules, no longer drawing their support from the philosophical and theological conceptions of natural law,[1] rest increasingly upon a universal recognition of their utility and upon the general consent of states; and this consent tends to be a voluntary and express consent, diplomatically given, to carefully formulated propositions. States are united by treaties for offense and defense, and more particularly for the regulation of common economic and political interests.[2] Many international difficulties that would formerly have been decided by the sword are now settled peaceably by arbitration,[3] and a considerable machinery of international administration and adjudication is now in existence. All these facts tend to strengthen the bonds of friendship among states and to make less likely resort to arms in case of disagreement.[4]

563. Influences hostile to internationalism. There are, however, factors that operate in the other direction. Modern states are often economic rivals, and economic rivalry is usually settled in the end by war.[5] Commerce is a bond of peace between those who buy and those who sell, but it sets at enmity those states that engage extensively in the same line of industry and that compete for the same markets.[6] The pressure of population upon food supply is the fundamental fact of history. This pressure is the source of progress and at the same time the source of poverty and of war.[7] Population and subsistence can be equalized only by checking the growth of the former or by increasing the latter.[8]

[1] Lawrence, Principles of International Law, pp. 32–53.

[2] Foster, Practice of Diplomacy, chaps. xii–xvi; Amos, Remedies for War, pp. 173–188; Moore, International Law Digest, Vol. V, chap. xvii; Fisk, International Commercial Policies, chaps. xi–xii.

[3] Hershey, Essentials of International Public Law, chap. xxi, and authorities there cited.

[4] Jenks, Principles of Politics, pp. 171–175.

[5] Robinson, "War and Economics in History and in Theory," in Political Science Quarterly, Vol. XV, pp. 604–619.

[6] The Federalist, No. 6; Dicey, "War and Progress," in Eclectic Magazine, 1867.

[7] Spencer, "Progress, its Law and Cause," in Essays.

[8] Fetter, "Population or Prosperity," in American Economic Review, Vol. III, No. 1, Supplement, pp. 5–19.

The growth of a state in population may be checked without war by disease, famine, artificial limitation of the birth rate, or emigration. Advancing civilization, by lowering the death rate, prevents the natural limitation of population, and emigration can take place only so long as there are unoccupied lands. Present indications point to an indefinite increase of the world's population.[1]

564. Pressure of population upon food supply. The available food supply of a given state, after the point of diminishing returns has been reached,[2] can be increased only by conquest or by commerce, the latter turning the people to manufacture in order to exchange their commodities for food which their own land cannot supply. Because of improvements in the methods of production, commerce is capable of indefinite expansion, but finally the law of diminishing returns again becomes applicable. As population increases it becomes more and more difficult to create a surplus of agricultural goods for purposes of exchange. At some point in this process states cease to offer a market for manufactured goods, and their people must starve, emigrate, manufacture, or go to war. The number of manufacturing states is constantly increasing; the number of agricultural states is diminishing. The result is a rivalry for markets whose crisis may be postponed for a time by the opening up of new lands or by improved methods of agriculture, but whose pressure is growing stronger each year. Tariffs and the financial burdens of armaments are used to-day as indirect means of warfare with deadly effect, ruining the weaker states in the competition; but the cause of war remains and, as long as separate states exist, war, necessary to secure or to maintain foreign markets, will for a long time to come, even if all other causes of conflict be removed, be an imminent danger.[3]

[1] While the numbers among peoples of inferior civilization are increasing very slowly, and in some cases are actually diminishing, the more advanced peoples are growing very rapidly. European whites have doubled their population during the past thirty-four years; the Semitic peoples, whose numbers have doubled in twenty-five years, showing the most rapid increase. See Seligman, Principles of Economics, chap. iv; Ross, Foundations of Sociology, chap. ii; Bonar, Malthus and his Work.

[2] Scientific methods of increasing the food supply during the past century have made possible higher standards of living in spite of the rapid increase of population. The limits of this development have by no means yet been reached.

[3] Robinson, op. cit., pp. 620–622.

565. National rivalries. Problems of race and nationality also tend to prevent world harmony. The national spirit has made itself felt frequently in the division and unification of states during the past century, usually to the accompaniment of war; and this spirit is still actively expressed in the demand for autonomy made by nations joined by political ties to alien peoples. Nationalistic sentiments and prejudices naturally accompany the first stages of a new democracy,[1] and in the revolutions and wars of the last century the principles of nationality and democracy were often combined.[2] The clearly marked individuality which characterizes national states, each striving to realize its distinct characteristics, is not conducive to the broadest humanitarianism.

566. Colonial rivalries. Besides, expansion in population, necessitating expansion in territory, leads modern states to extend their control over as large a portion of the earth's surface as their energies and opportunities permit.[3] By the exploitation of undeveloped regions, national empires are built up;[4] and the existence side by side of a number of powerful states, each emphasizing the importance of national solidarity as a requisite for success and each watching with jealous eye the colonial policies of its neighbors, stimulates national ambitions unduly and is a constant menace to world peace.[5] Interest in world politics not only tends to check democratic development and reforms within the state, but by reviving the idea of world empire may ultimately lead to world conflict.[6] Under present conditions the importance of navies, naval stations, and sea communications needs but to be mentioned.[7]

567. Inferior civilizations. The fact that by far the larger part of humanity lives under backward civilizations in tropical or semi-tropical lands, and that some degree of authority over them is usually exercised or claimed by the more advanced peoples underlies

[1] Lange, "Tendencies toward Parliamentary Rule," in Spiller, Interracial Problems, pp. 119–120.

[2] Judson, Nineteenth Century, pp. 64–70.

[3] Reinsch, World Politics, Part I, chap. i; Jenks, Principles of Politics, pp. 160–165; Leroy-Beaulieu, De la colonisation chez les peuples modernes.

[4] Reinsch, Colonial Government, Part I.

[5] Jordan, Imperial Democracy; Giddings, Democracy and Empire, chap. xvii.

[6] Reinsch, World Politics, Part I, chap. v.

[7] Mahan, Interest of America in Sea Power, Present and Future.

many of the most difficult problems of modern politics.[1] Questions of acclimatization,[2] especially of the influence of the tropics upon the white race,[3] of amalgamation and the results of race mingling,[4] and of civilization and its effects upon backward peoples have far-reaching importance.[5] A most significant fact is the rapid numerical increase of the white race. Two centuries ago the pure-blooded whites numbered less than one hundred millions, or ten per cent of the world's population, and were limited to Europe and North Africa. At present the European whites alone number five hundred millions, or one third of the entire population of the earth. In addition, nonresident whites of European descent have increased from ten millions to over one hundred millions during the past century. Teutons, Slavs, and Hebrews in particular have increased in numbers and in influence. Whether these aggressive peoples are justified in seizing undeveloped resources, policing unpolitical areas, and civilizing, by force if necessary, inferior peoples opens up problems of prime importance in interstate relations and in general political evolution.[6]

568. World federation. Many thinkers, both speculative philosophers and practical statesmen, have looked forward to the abolition of war through the formation of a world federation.[7] Erasmus, Grotius, William Penn, Montesquieu, Turgot, and Kant expressed their beliefs that the permanent removal of the causes of armed strife among states could be accomplished only through some form of world organization. In the seventeenth century, Henry IV of France and his famous minister Sully planned a grand republic of the fifteen leading states of Europe;[8] a century later the Abbé

[1] Kidd, Control of the Tropics; Ireland, Tropical Colonization; Mahan, The Problem of Asia.

[2] Ripley, Races of Europe, chap. xxi.

[3] Sambon, "Acclimatization of Europeans in Tropical Lands," in Geographical Journal, Vol. XII; Ripley, "Acclimatization," in Popular Science Monthly, 1896.

[4] Finch, "Effects of Racial Miscegenation," in Spiller, Interracial Problems, pp. 108–113.

[5] Brinton, Races and Peoples, Lecture X.

[6] Treitschke, Politik, section 4; Von Holst, Constitutional History of the United States, Vol. III, pp. 269–272; Burgess, Political Science and Constitutional Law, Vol. I, pp. 44–48; Sidgwick, Elements of Politics, pp. 321–327.

[7] Von Stengel, Weltstaat; Chittenden, War or Peace, chap. vi; Novicow, La Fédération de l'Europe; Trueblood, Federation of the World.

[8] Kitchin, History of France, Vol. II, pp. 472–477.

St. Pierre, in his "Project of Perpetual Peace,"[1] proposed a similar scheme. Rousseau and Bentham also considered a world state desirable, and numerous recent writers, especially Bluntschli, have urged its practical possibility.[2] The success of the federal principle in uniting the hostile and distrustful elements that originally composed the United States and the German Empire is pointed to as justifying the extension of the federal principle to the entire world.[3]

569. Existing elements of a world state. Several important elements of a constitution for a world state already exist.[4] As a nucleus for an international legislature there is the Interparliamentary Union, established in 1889, and composed of over three thousand members of the lawmaking bodies of those states that have representative institutions. In addition, the Hague peace conference, containing an equal representation of states, as is the case in the senates of several existing federations, and meeting at regular intervals, forms a sort of upper house. The Hague Court and the International Prize Court form an international judiciary. International administration has attained imposing proportions. What may be denominated an international Department of Transportation includes the Universal Postal Bureau, the International Telegraph Bureau, and the International Bureau of Railways; a Department of Agriculture and Labor includes the International Institute of Agriculture and the International Labor Office; a Department of Commerce and Colonization includes the International Colonial Institute, the International Bureau of Weights and Measures, and the International Bureau for the Publication of Customs Tariffs; a Department of Health includes the International Office of Public Hygiene; a Department of Arts and Sciences includes the International Bureau for Ocean Exploration, the International Geodetic Bureau, the International Seismological Bureau, and the International Scientific Catalogue; a Department of Justice includes the Bureau of the International Court of Arbitration and

[1] Janet, Histoire de la science politique, Vol. II, pp. 305 ff.

[2] Theory of the State, Bk. I, chap. ii.

[3] Hill, World Organization and the Modern State, pp. 135–137.

[4] La Fontaine, "Existing Elements of a Constitution of the United States of the World," Pamphlet No. 47 of the American Association for International Conciliation; Bridgman, World Organization.

International Bureaus of Patents and Copyrights. These departments spend upwards of five hundred thousand dollars annually, which may be considered an international budget.

570. Obstacles to world unity. Several conditions, however, render unlikely the complete federation of the world, at least for some time to come. Inequalities of political development and capacity among states and the existence of peoples under rudimentary forms of juristic organization make impossible equal union among all mankind. Even among the leading members of the family of nations there are antipathies of tradition and conflicts of interest that are plainly incompatible. Besides, national independence is still necessary to the preservation and development of values fixed and gained in the struggle of history. The obliteration of nationality might involve immense loss to mankind, and humanity might be leveled down to an indiscriminate mass if the ideals and traditions binding men to their political past were destroyed too soon.

In actual practice, the society of states, each unwilling to submit to the dictates of a superior power, and at the same time desiring to avoid the disturbances and uncertainties of constant warfare, have developed several international policies that permit a compromise between the rule of law and the rule of force, and that strike a rough balance between the theory of the legal equality of states and the actual differences among them in size, strength, and importance. The ancient custom of forming treaties of alliance has been developed into the principle of international equilibrium, or the balance of power.[1] In spite of numerous failures this principle has produced certain useful results. The domination of Europe by a single power was prevented by the union of the smaller states, first against the House of Hapsburg, then against the House of Bourbon. At present the Triple Alliance[2] is theoretically balanced by the Dual Alliance.[3]

[1] Dupuis, Le Principe de l'équilibre et le concert européen; Donnadieu, Essai sur la théorie de l'équilibre.

[2] Germany, Austria-Hungary, and Italy, formed in 1882.

[3] France and Russia, formed in 1891. The adhesion of England to this combination forms the Triple Entente. See Tardieu, "Bird's-Eye View of European Politics," in the Century, April 1913, pp. 821–827; Seignobos, Political History of Europe since 1814, pp. 827–831; Tardieu, France and the Alliances.

571. Weakness of the balance of power. The system of the balance of power is defective, however, in that it is founded upon the idea of hostility. Such alliances are in constant danger of being destroyed by the appearance of new interests leading to the formation of new groupings of states,[1] by the creation of suspicions among former friends, and by the cultivation of the fear of hostilities by the weaker states in order to increase their own importance. Besides, since the value of a state under this system depends upon its warlike strength, chief emphasis is laid upon the increase of armaments. This not only places heavy financial burdens upon states but also develops a military spirit and increases the danger of war.[2] Finally, there has grown up, as a corollary of the balance of power, the doctrine of compensation, according to which each side of the balance claims the right to increase its power if the other side acquires new strength.[3] This often results in unjustifiable seizure of territory and in absolute disregard of the wishes of the weaker peoples.[4]

572. International neutralization. The danger of international disturbance has also been diminished by agreements among the great powers according to which certain buffer states, especially likely to become areas of hostilities or sources of contention among the greater powers, have been internationally neutralized.[5] While this principle may be applied successfully to small states or to areas likely to become spheres of rivalry in colonial expansion, it does not solve the more important problem of satisfactorily adjusting the relations of the larger national states.

573. Intervention. Another recognized principle of world politics is the right of the great powers to interfere in the affairs of less perfectly organized and less highly developed states whose

[1] For example, the opening up of the Orient has caused considerable modification in the alignment of states from that formerly based upon European politics alone. See Reinsch, World Politics, Parts II–III.

[2] Seignobos, Political History of Europe since 1814, pp. 831–832.

[3] Examples of the application of this principle may be seen in the recent agreements between France and Germany, by which both have increased their possessions in Africa; and between England and Russia, by which both have extended their control in Central Asia.

[4] Hill, World Organization and the Modern State, pp. 133–135.

[5] Switzerland, Belgium, and Luxemburg are examples.

chronic misgovernment or persistent wrongdoing produces external complications and endangers civilization.[1] The concert of Europe, composed of the six leading states of the continent,[2] controlled the political destinies of the Old World during the past century, sometimes in a selfish spirit of national aggrandizement and mutual jealousy. The affairs of the Ottoman Empire especially have furnished a field for their activity.[3] The traditional policy of the United States, represented by the Monroe Doctrine, aims to exclude European intervention from the American continent; and this places a corresponding responsibility upon the United States to maintain order and good government and to mitigate international nuisances in this hemisphere.[4] The attempts of the European concert, toward the close of the nineteenth century, to extend their system to the Far East[5] met the diplomatic opposition of the United States[6] and the armed resistance of Japan.[7] As a consequence, the United States, modifying its principle of keeping aloof from foreign complications, has joined with the European concert and with Japan in a new world concert, Asia and Africa, as well as Europe and America, forming at present parts of the world system.

574. Conclusion. The combination of these various principles and movements in the relations among states makes impossible any conclusive generalizations regarding present international tendencies. Over against the theoretical independence and equality of states may be placed the actual differences distinguishing great and small states, and the actual interference of the powerful in the affairs of the weak.[8] In opposition to the tendencies toward world peace and unity, as manifested by the growth of internationalism

[1] Amos, Remedies for War, pp. 75–81, 139–162; Lawrence, Principles of International Law, pp. 268–288; Moore, International Law Digest, Vol. VI, chap. xix.

[2] England, Germany, Russia, France, Austria-Hungary, and Italy.

[3] Driault, La Question d'Orient depuis ses origines jusqu'à nos jours; Holland, The European Concert in the Eastern Question.

[4] Moore, op. cit., Vol. VI, pp. 518–529; Coolidge, United States as a World Power, chap. xvi.

[5] Douglas, Europe and the Far East.

[6] Coolidge, op. cit., chaps. xvii–xix; Reinsch, op. cit., Part V, chap. i.

[7] Dyer, Japan in World Politics.

[8] Hershey, Essentials of International Public Law, pp. 147–157.

and by the emergence of a considerable degree of world organization, there exist strong national rivalries, especially in colonial and commercial relations, and increasing competition in the preparations for war. Between these extremes stand various groupings and alliances, more or less permanent, and various principles of international expediency that may conserve peace or that may, under slightly changed conditions, precipitate war. No phase of political development exhibits such contradictory factors as the external relations of states. Common civilization creates an international current which contributes to the solidarity of peoples; political and economic rivalries create national currents which induce states to treat each other as enemies. While the scope of international interests is undoubtedly growing wider and the rules of international morality are increasing in number and in force, the establishment of a world state, requiring existing states to surrender their sovereignty and independence, and the abolition of war as the final resort in case of international dispute are ideals unlikely of immediate fulfillment.[1]

III. Conclusions

575. Complexity of political evolution. Several important conclusions may be drawn from the attempt in this volume to sketch in broad outlines some phases of the development of political theories, institutions, and activities. In the first place, even the most superficial study of political evolution brings out clearly the marvelous complexity of the process. The rise and progress of state existence takes place as the result of constant action and reaction among a multitude of forces, intricately interrelated. Hence it is necessary to go over the same ground many times, from different points of view. The historical development of the state, as a chronological process, has never twice followed identical channels. The origin of each state resulted from conditions peculiar to its time, and the development of each state has taken forms of its own. This historical process must also be viewed, in the case of each state, from the standpoint of both organization and function.

[1] Willoughby, Nature of the State, pp. 406–410; Hill, World Organization and the Modern State, pp. 199–201.

Sometimes chief interest centers around the form, composition, and machinery of the state; sometimes, around the nature and scope of its activities. At any given time in the process of political evolution, attention must be directed to what each particular state *is*, and to what it *does;* each of these affects the other and, either unconsciously or as the result of man's deliberate efforts, both are constantly changing to accord with changing conditions in the political environment. Moreover, the process is complicated by the threefold relations with which states are concerned: those of individual to individual, of individual to state, and of state to state. Each of these, in some respects distinct from the others, is in a broader view intimately connected with them or dependent upon them.

576. Impossibility of final solutions. In the second place, the consideration of each phase of political development ends in a problem, sometimes in a dilemma. Because of the evolutionary nature of state growth, all questions of political organization and function are necessarily relative. A perfect and permanent form is impossible, and definite and final laws cannot be laid down. Just as men have ceased to look to a "golden age" in the past and have turned their attention to improving the present, so intelligent men have ceased to assign universal validity to theories true enough under certain conditions or to place implicit dependence upon speculative theories and utopias. "The modern scholar, solemnly warned by the fate of the older doctrinaires, is on his guard against formulating into a transcendental philosophy either the emotions connected with the *status quo* or the ecstatic delight derived from contemplating a perfected humanity."[1] The scientific methods of the historical school, ably supplemented by the principles of evolution, have made possible some conception of the nature of political problems, of the process by which they have arisen, and of the manner in which they may from time to time be more or less satisfactorily adjusted. "Politics confronts not axioms of law or polity set like the hills, but complicated social questions to be settled, not in the closet with the philosophers, but amid the multitudinous experiences of the market place where society daily meets the pressing needs of life."[2]

[1] Beard, Politics, p. 12. [2] Ibid. p. 11.

577. Compromises the only solutions. Finally, it follows that, as these problems approach any degree of satisfactory adjustment, such adjustment takes the form of a compromise between extremes, each of which exhibits undesirable features. The state, by its very nature, is a compromise between authority and freedom; its composition, its organization, and its functions all show the effects of its paradoxical nature. The size of the state in area and population also fluctuates between the small, compact community and the vast, extended empire, both of which have elements of strength and of weakness. Various bonds of internal unity and varying degrees of external compulsion determine the composition of each state, but no form is permanent. Rome could not check her expansion after she had absorbed Gaul and humbled Carthage. The responsibilities of maintaining order along her frontiers and of policing the Mediterranean compelled further conquests. The United States could not avoid further territorial growth after her western boundary reached the Mississippi. It was inevitable that the mouth and the western tributaries of that river should also come under her sway.[1] The momentum acquired in the formation of a state tends naturally to carry it forward until the point of equilibrium is reached between the internal pressure for expansion and growth and the external resistance of neighboring states or the difficulties involved in holding together the larger area and in governing the increased population. Then it becomes difficult to maintain what has been accomplished, growth carrying with it the seeds of decline. Thus political units combine and divide, states rise and fall, the conditions that are operative at any given time determining what distribution of the world's area and of its inhabitants into political units shall be made.

578. Dangers in conclusions drawn from comparisons. However, this process follows no single line and no uniform cycle, nor can the decline of one state for certain reasons argue a similar fate for another state for the same reasons. The fact that external expansion and the government of remote provinces weakened Rome does not guarantee that the British Empire will feel similar effects from the possession of her diverse and scattered dependencies.

[1] Semple, American History and its Geographic Conditions, chaps. ix–xii.

Numerous other elements also enter into consideration, interfering with the analogy. Improvements in the means of communication and transportation and in the methods and fundamental bases of government revolutionize the whole problem. What is at one time an element of weakness may in another age become a source of strength. A change in implements of warfare, or in processes of manufacture, or in intellectual beliefs may result in important readjustments of all the boundary lines on the map.

579. Compromises in state organization. The organization of the state also demands a series of compromises. The adjustment of sovereignty to liberty must avoid the dangerous extremes of despotism and of anarchy. A degree of collective authority sufficient to restrain the actions of nonsocial individuals and to promote the general welfare must be combined with a degree of freedom sufficient to protect the interests of the individual. Where the line between the state as a unit and its members as units should be drawn is a relative question, depending upon conditions in each age and in each state. The civil liberty that is demanded as a minimum in modern democracies would have been considered destructive of all law and order in former states. The proper share of each individual in government is also a relative problem, some states reaching the point where it is safe and desirable to extend political authority to the masses of their populations, other states being in positions where such a policy would be fatal. A less amount of political liberty than that which secures conservative and stable government in England and in the United States creates frequent revolutions in Latin America.

580. Compromise between national and local authorities. The adjustment between national and local government has also been a problem in all states that exceeded a comparatively small size. The advantages of centralized and decentralized governments, of unitary and federal governments, of hierarchies of officials and of systems of representation all have had historic support, each state adopting the forms best suited to its circumstances and to the intelligence of its people. Here again many of the systems contain elements that lead to their own destruction. For example, the federation, one of the most satisfactory compromises in political

development, by its very establishment gives an impetus toward further integration which tends to destroy the federal form. The existence of a common government, whose working becomes increasingly familiar to all citizens, cannot fail to strengthen the national spirit, whose beginnings at least the federation indicated. Common action, particularly in war or foreign relations, increases national at the expense of local patriotism; and the former units, losing their political identity, tend to become mere convenient districts of administration.

581. Compromises in state functions. So the functions of each state must follow that compromise line between socialism and individualism that best conserves the interests of both state and individual. The relations among states must vary between the cosmopolitan point of view resulting from international interests and the national point of view resulting from the interests of each state separately. The final purpose of the state requires attention to the welfare of individual, state, and civilization in general. From whatever angle political development is viewed, adjustment of means to ends and of forms to environments is seen. Political evolution is a complex and confusing process; man's consciousness of the existence of this process and of his own ability to modify or direct it leads to problems that are being more and more clearly realized in their entirety and in their interrelations. The essential relativity of all political principles and the need for frequent, yet conservative and constructive, readjustments, based on the fullest knowledge of the nature and strength of all the influences involved, are the chief lessons of history and of politics. Only recently has this point of view been realized and even yet many political practices ignore it. The most promising feature of present politics is the serious effort in many places to make practical application of its teachings.

582. Conclusion. "It is here that we realize the concrete meaning of the idea of harmony as the touchstone of social development. All one-sided progress cramps as much in one direction as it liberates in another. True development is comparable to organic growth — the opening out of each element furthering instead of retarding that of others. Such a development is not in conflict

with immovable laws of evolution but is continuous with the line of advance which educed the higher from the lower animal forms, which evolved the human out of the animal species, and civilized from barbaric society."[1] "This, then, is the sum of the whole matter: the end of government is the facilitation of the objects of society. The rule of governmental action is necessary coöperation. The method of political development is conservative adaptation, shaping old habits into new ones, modifying old means to accomplish new ends."[2] What elements of the old shall be retained and what tendencies of the present shall be chiefly followed in making the needed modifications remain constant problems. The so-called "spirit of the age" is not an entirely safe guide. So rapidly do conditions change in the modern world that when any spirit of the age has been generally recognized it is time to scan the horizon for signs of a new era.[3] Each political form and each political theory contains within itself the possibility of dangerous extremes and the germ of its own decay. No phase in political evolution may safely be assumed to be perfect and permanent. Conservative and intelligent compromise and adjustment are essential for political progress.

[1] Hobhouse, Social Evolution and Political Theory, p. 204.
[2] Wilson, The State, p. 639.
[3] Lowell, Public Opinion and Popular Government, p. 303.

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